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THE INITIATIVE AND THE REFERENDUM IN SWITZERLAND[1]

WILLIAM E. RAPPARD

Harvard University

It is the pleasant duty of every Swiss, addressing an audience of American citizens on a subject of political science, to begin by acknowledging the debt of gratitude his country owes theirs, for the benefit it has derived from the historical example of the United States.

For over a century a continuous exchange of political ideas has been going on between our two nations. After all the flattering and gratifying commentaries on our institutions that have been made on this side of the ocean,[2] it is but fair that we Swiss should frankly admit that in this exchange we have received more than we have given.

At the end of the 18th century Switzerland was a loose confederation of independent republics, some of which were barely more than rural communes, some commercial oligarchies and some landed aristocracies. Today, and ever since 1848, Switzerland is one country, not indeed powerful in numbers or in

[1] This paper was read at the last annual meeting of the National Municipal League at Richmond, Va., on November 15, 1911. For several formal corrections I am indebted to my friend and colleague, Dr. Arthur N. Holcombe, who kindly consented to read my manuscript.

[2] I refer to such works as J. M. Vincent, *State and Federal government in Switzerland* (Baltimore, 1891); W. D. MacCrackan, *The Rise of the Swiss Republic* (Boston, 1892); H. D. Lloyd, *A Sovereign People* (New York, 1907).

military resources, but strong in the consciousness of its political unity; and in all of its twenty-two constituent cantons, the democratic principle prevails. The causes to which this rapid evolution is due are, as I believe, mainly economic in their nature. But the example of the thirteen American colonies proclaiming their independence in 1776 and of the United States of America adopting the Constitution of 1789 certainly contributed in no mean measure to guide this evolution and to shape it toward a peaceful and successful close. Before taking up the subject I have been called upon to treat before you, I will, if you permit, substantiate this statement by briefly recalling a few episodes of our national history.

The first democratic movement that broke out in Switzerland after the American revolution was that which, in 1781, aimed to overthrow the aristocratic *régime* of Fribourg. Speaking of this movement in an unpublished article, Nicolas d'Alt, one of the members of the threatened aristocracy, says: "The *bourgeoisie* of Fribourg, numbering from four to five hundred armed men, impressed with the bravery of the Americans, formed a plan similar to theirs." [3] The revolutionary author of an anonymous pamphlet, published in Fribourg in the same year, begins his appeal to his countrymen with the following words: "Glorious Americans! You have taken up arms in defence of your rights. . . ." [4]

Another outburst of democratic feeling took place in the canton of Zurich in 1794. Among the few books that were found at the club [5] of the leaders of this uprising was Ramsay's *History of the American Revolution*.[6] We have evidence to show that the

[3] "La Bourgeoisie de Fribourg, composée de quatre à cinq cents hommes portant armes, frappée de la grandeur du courage des Américains . . . . fit un plan ressemblant au leur." See *Les Troubles de 1781 à Fribourg par Nicolas d'Alt.* Collection Gremaud, fol. 41, Archives d'Etat de Fribourg.

[4] "Glorieux Américains! vous avez pris les armes pour la défense de vos droits . . . See *Exposé justificatif pour le peuple du canton de Fribourg en Suisse, au sujet des troubles arrivés en 1781.* (Fribourg, 1781), p. 49.

[5] The "Leseverein Stäfa."

[6] Cf. J. J. Hottinger, *Vorlesungen über die Geschichte des Untergangs der schweizerischen Eidgenossenschaft* (Zurich 1844) p. 130.

privileged classes in Zurich shared the interest of the malcontents on this point. In his *Lebenserinnerungen*, the patrician historian Meyer von Knonau, born in 1769, writes: "The most important historical event that happened during my childhood was the American revolution. I clearly remember that the American cause, Franklin, Washington, and other men appealed to the sympathy of all and that in my surroundings the action of the British cabinet was severely judged." [7]

These two movements were unsuccessful, but in 1798, under the immediate influence of the French revolution and under the stress of French invasion, the Swiss people abandoned the old forms of government and adopted a democratic constitution. One of the men who took an active part in the ensuing political changes was Jean Jacques Cart, a lawyer from the *Pays-de-Vaud*, who became a Swiss senator in 1801. He had lived in Boston and in New York State, both before and after the war of independence, and he assures us in his writings that "the impressions I had there received were not to be erased from my memory. So my love, my passion for liberty. . . ."[8] Elsewhere he declares that his whole destiny was determined by his stay in the "classical land of liberty," as he calls the United States.[9] He further tells us how, in 1798, on hearing what was going on in Switzerland, he left his plow in Ulster County and hastened to Aarau, then the Swiss capital. "There," he says, "I met the citizen director Ochs and we spoke of Washington, of Hancock, of Adams, of Jefferson, and of the Americanized Genevese Gallatin."[10]

I could quote many other instances of Swiss-American rela-

[7] Das wichtigste historische Ereignis während meiner Kindheit war die Losreissung der nordamerikanischen Kolonieen . . . von dem Mutterlande. Noch erinnere ich mich deutlich, dass die nordamerikanische Sache, Franklin, Washington und andere Männer. . . . Theilnahme für sich erregten, und dass ich das Verfahren des britischen Cabinetts misbilligen hörte." Ludwig Meyer von Knonau, *Lebenserinnerungen*, (Frauenfeld, 1883) p. 5.

[8] "Les impressions reçues alors ne n'effacent jamais. Ainsi mon amour, ma passion de la liberté." . . . J. J. Cart, *De la Suisse avant la révolution et pendant la révolution*, (Lausanne, 1802), p. 9.

[9] "Ces pays classiques de la liberté." J. J. Cart, *Lettres à F. C. Laharpe, Directeur de la République Helvétique*, (Lausanne, 1798,) p. 5.

[10] Cart, *De la Suisse* etc. p. 62.

tions of this kind. But the aforementioned may suffice to show that the first democratic movements in modern Switzerland were strongly inspired and influenced by the example of America.

The Swiss Constitution of 1798 was framed after the French model of the year III (1795). Under its provisions the cantons, which had been practically sovereign before 1798, were ruthlessly merged into the "Helvetic Republic, one and indivisible" and administered by federal prefects. It immediately became evident that this constitution was ill-adapted to meet the requirements of a nation which gloried in its local diversities and which had for centuries been accustomed to the practice of local self-government. On the other hand, the need of a strong central power and the advantages of uniform legislation were also widely recognized. The smaller cantons were especially reluctant to abandon their former autonomy and the larger ones were unwilling to submit to the control of a federal government, unless a share of influence, proportional to their population, were therein secured for them.

The problem which thus faced the statesmen in Switzerland at the end of the 18th century, closely resembled that which had been so happily solved in the United States by the elaboration of the Constitution of 1789. No wonder then that voices soon arose urging the adoption of the American system. In 1799 our national historian, Johann von Müller, recommended the organization of a bicameral legislature similar to the American Congress.[11] In 1800 the greatest living statesman, Napoleon Bonaparte, concurred in this proposal,[12] and by 1801 the matter had been so widely discussed[13] that, as an anonymous Swiss senator put it, the United States of America had already become a "stylish example"[14] in Switzerland.

[11] See his *Sämmtliche Werke*, (Stuttgart and Tübingen), 1831–1835, vol. xxxii, p. 65.

[12] J. Strickler, *Aktensammlung aus der Zeit der Helvetischen Republik*, (Berne 1886–1903), vol. vi, pp. 260, 721.

[13] Ed. Haug. *Der Briefwechsel der Brüder J. Georg Müller and Joh. von Müller*, (Frauenfeld 1893), vol. i, p. 175, 188.

[14] See his article entitled *Gedanken über den Föderalismus in Helvetien*, in the *Helvetische Monatschrift*, Berne 1801, vol. vi, p. 49.

The political reaction of the Napoleonic and of the Restoration periods, however, interrupted all political progress for nearly fifty years, and so it was only in 1848 that the American "style" was adopted and the American example followed.

Ever since our country has thrived and prospered under what may properly be called the American system of federal government. To quote Mr. Bryce, I will add that our present constitution therefore "bears witness to the soundness of American doctrines." [15]

These introductory remarks may suffice to point out the influence the United States exerted on the political destiny of Switzerland. You have lead the way toward free and democratic institutions and we have copied the scheme you devised for conciliating states' rights and national government. That is why I may truly say that, in the field of ideal co-operation for political progress, in which the two sister republics have been engaged for over a century, the younger and somewhat portlier member of the family has done more than her share of the common work.

There is yet a third political gift which the United States has bestowed upon Switzerland. To mention it will bring me back to the subject of direct popular legislation.

In treating this subject I intend: first, to enumerate the different varieties of the initiative and of the referendum in force in Switzerland at the present time; then, to show how they came to be introduced; and finally, to determine if possible their practical results.

Before proceeding, and at the risk of seeming unduly tedious, I shall briefly define the technical terms I shall be obliged to use in the course of this paper.

The popular initiative is the right of the people, under the representative system, to propose legislative measures; the referendum, the right to accept or refuse them.

According to the political area in which these rights are exer-

[15] James Bryce, *The American Commonwealth*, 2nd ed. Vol. I, p. 319.

cised, we speak of federal (or national), cantonal, or municipal initiative or referendum.

According to the measures they apply to, we speak of constitutional or legislative initiative or referendum.

We will call the right by which the people may require the legislature to consider a certain matter and submit a bill relating to it to the popular vote, the "indirect" initiative. We will call the right by which the people may require a bill, drafted without the intervention of the legislature to be submitted to the popular vote, the "direct" or "formulative" initiative.

The referendum is termed "compulsory" when it applies to bills which cannot become enforcible laws without having received the popular sanction; it is styled "optional" when it applies to bills which are not submitted to the people, except when a petition of citizens expressly and specifically requires them to be.

In Switzerland there is at present a *federal compulsory constitutional referendum*,[16] *a federal optional legislative referendum*,[17] and a *federal constitutional initiative*,[18] which may be exercised both "indirectly" and "formulatively."

A bill to introduce the federal legislative initiative has been pending before the Federal Assembly (Congress) ever since 1906, but has not yet been adopted.

In order to stand accepted, any amendment of the federal constitution must be approved by a majority of the voters at a referendum and in a majority of cantons. All federal laws, and all federal resolutions (arrêtés législatifs) which have a general application and which are not of an urgent nature, must be submitted to the people, if, within three months of their acceptance by the Federal Assembly, the demand is made by 30,000 voters or by 8 cantons.

The federal constitution, or any part thereof, must be submitted to the people for amendment if the demand is made by 50,000 voters.

[16] Federal Constitution of 1874, art. 123.
[17] *Ibid.*, art. 89.
[18] *Ibid.*, arts. 120–122.

In studying the initiative and the referendum in the different cantons we must leave out of consideration Uri, Unterwalden, Glarus, and Appenzell, where legislation is still proposed and enacted by the *Landsgemeinde* or direct mass meeting of the people. In democracies where the representative system has not yet been introduced the initiative and the referendum, which are essentially schemes devised to overcome the disadvantages of that system, are naturally useless and therefore unknown.

In the nineteen other Swiss commonwealths the cantonal compulsory constitutional referendum everywhere prevails.

In all the cantons but one, (Fribourg), the cantonal legislative referendum has been introduced. In nine [19] of them it is compulsory for most important measures, especially those of a fiscal nature, and in nine [20] others it is optional in all cases.[21]

The cantonal constitutional initiative is in force in all cantons, but in only a small minority [22] can it be exercised formulatively. The cantonal legislative initiative prevails in all but three [23] commonwealths.[24]

In two cantons [25] the constitution provides that in case of ambiguity the statute law shall be interpreted by popular vote.[26]

In all the larger Swiss cities the initiative and the referendum, the latter often compulsory in matters of public finance, have been introduced within the last thirty years.[27]

[19] Zurich, Berne, Schwyz, Solothurn, Baselland, Graubünden, Aargau, Thurgau, Valais.

[20] Lucerne, Zug, Schaffhausen, Baselstadt, St. Gall, Tessin, Vaud, Neuchatel, Geneva.

[21] Theodor Curti, *Die Resultate des Schweizerischen Referendums*, (2nd ed. Berne 1911), p. 4. In the preparation of this paper a very extensive use has been made of this book as well as of several other works by the same author. Mr. Curti, the foremost Swiss authority on the subject of direct popular legislation, is one to whom all students of present day politics must feel deeply indebted.

[22] When the federal government adopted the formulative constitutional initiative, it had been tried only in Zurich, Schaffhausen and Tessin. Cf. Charles Borgeaud, *Etablissement et révision des Constitutions* (Paris, 1893), pp. 339, 344.

[23] Lucerne, Fribourg, Valais.

[24] Curti, *Die Resultate* etc., p. 3.

[25] Solothurn and St. Gall.

[26] Curti, *Die Resultate* etc. p. 4.

[27] *Ibid.*, pp. 10–16.

Such, briefly stated, is the present status of the initiative and the referendum in Switzerland.

Let us now consider when and how these institutions came to be adopted.

The compulsory constitutional referendum, by far the most important of all varieties of popular legislation, was also chronologically the first to be introduced in modern Switzerland.

The constitution of 1798, although it was not itself submitted to the people, provided that all future amendments should be ratified by "primary assemblies" (assemblées primaires).[28] This constitution, as I have already observed, was a close imitation of the French fundamental law of 1795;[29] and all the French revolutionary constitutions were very directly influenced by American models.[30] It is therefore not stretching historical truth, to claim that we Swiss owe the most essential feature of modern direct democracy to America.[31]

The first Swiss constitution that was actually submitted to the people for ratification was that of 1802.[32]

After the French July Revolution, a wave of democratic reform swept over Switzerland. As a result several cantons modified their form of government, and in all that did so, except Fribourg, the principle of the constitutional referendum was recognized. After 1848 no cantonal constitution was accorded the federal sanction unless it had previously been ratified by the people.[33]

Although a somewhat analogous institution had prevailed before in the Valais and in the Grisons,[34] one may say that the modern optional legislative referendum was also a product of the

[28] Helvetic Constitution of 1798, arts. 106, 107.

[29] Cf. A. Aulard, *Histoire politique de la Révolution française*, (Paris 1901), pp. 543–579.

[30] This has been conclusively shown by Charles Borgeaud in his above-quoted work. Cf. pp. 27–31, 243, 248 et seq.

[31] This debt has been expressly recognized by Theodore Curti. See his Open Letter to Dr. George J. King, reprinted in the January, 1910 number of the Equity series.

[32] Curti, *Geschichte der Schweizerischen Volksgesetzgebung*, (2nd ed. Zurich, 1885), p. 109.

[33] Federal Constitution of 1848, art. 6, litt. c.

[34] A. E. Cherbuliez, *De la démocratie en Suisse*, (2 vols. Paris, 1843), vol. i, p. 92.

democratic movement of 1830. It was first introduced in St. Gall in 1831,[35] Baselland adopted it in the following year, Lucerne in 1841,[36] Vaud in 1845,[37] Schwyz in 1848.[38] It then spread rapidly and today, as before remarked, Fribourg is the only canton which has not yet accepted it.

The federal constitution of 1848 underwent a general revision in 1874 and the optional legislative referendum was then introduced.[39] As Professor Borgeaud says, it "entered the Federal Constitution as a concession to minorities and a counter-poise to the new powers which the revised articles took away from the states in order to lodge them with the Union."[40]

The compulsory legislative referendum was introduced, for all legislation in Baselland in 1863[41]; for the most important measures only in Zurich, Thurgau, Berne and Solothurn in 1869 and in Aargau a year later[42]; for financial matters only in Neuchatel in 1858 and in Vaud in 1861.[43]

In the cantons where the compulsory legislative referendum is most developed, the measures subjected to popular ratification are voted on once or twice a year at dates established by law. In Berne, for instance, all important bills adopted by the legislature in the course of the preceding year are voted on by the people on the first Sunday in May.

The constitutional initiative, in its primitive form, was simply the right of the people to demand a general revision of the fundamental law. This right was first proclaimed in a number of the cantonal constitutions drawn up after the revolutionary movement of 1830,[44] and was looked upon as an extremely dan-

[35] Curti, *Geschichte* etc., p. 128 et seq.
[36] *Ibid.*, p. 126.
[37] *Ibid.*, p. 127.
[38] *Ibid.*, p. 207.
[39] Federal Constitution of 1874, art. 89.
[40] Charles Borgeaud, *Practical results which have attended the introduction of the referendum in Switzerland.* The Arena, May, 1905.
[41] Curti, *Geschichte*, etc., p. 211.
[42] *Ibid.*, pp. 212–214.
[43] *Ibid.*, p. 209.
[44] Cherbuliez, vol. i, p. 83.

gerous innovation by the conservative publicists of the day.[45] By 1848, however, it had been generally recognized to be what it undoubtedly is, a very effective safeguard against violent outbursts of popular discontent. It was therefore imposed on all cantons by the Federal Constitution,[46] which adopted it also for the federal state.[47]

That the right to demand a general revision of the constitution implied the right to demand certain specific amendments thereto, seems logically evident and legally certain. But although the Federal Constituent Assembly in 1848 had in clear terms expressed this to be its opinion, the national legislature in 1879 refused to consider a petition signed by more than 50,000 voters requesting that the people be consulted on the expediency of amending the constitution on a particular point. This somewhat autocratic attitude of the legislators aroused a wide-spread feeling of discontent, which, after much desultory discussion, culminated in 1891, in the adoption by the people of a very radical measure. The principle of federal formulative constitutional initiative was then embodied in the Constitution.[48] Any 50,000 voters have thereby acquired the right to oblige the people to vote directly on any constitutional amendment they may see fit to propose.

The adoption of this measure may be called a "fluke," as it was certainly not in the line of a normal evolution that the federal constitution, the highest law of the land, should be rendered more easily amendable than all other federal, and than most cantonal, legislation.[49]

[45] Cherbuliez, for instance, says: "Je ne connais rien dans l'histoire qui ressemble à cette instabilité des institutions consacrée en principe et devenue le droit commun de 13 peuples." He adds in a footnote: "Aux Etats-Unis d'Amérique les constitutions de New Hampshire, Vermont et Indiana sont, si je ne me trompe, les seules qui n'accordent pas à la législature l'initiative exclusive des referendums constitutionnels." *op. cit.*, p. 85.

[46] Federal Constitution of 1848, art. 6, litt. c.

[47] *Ibid.*, art. 113.

[48] Borgeaud, *Etablissement*, etc., pp. 370, et seq.

[49] It shocked even so progressive a statesman as Numa Droz, who declared that by accepting it the Swiss people had abandoned democracy for demagogy. Numa Droz, *Etudes et portraits politiques*, (Geneva and Paris, 1898), p. 453.

The cantonal legislative initiative was first introduced in Switzerland in the Vaud constitution of 1845.[50] The debates of the constituent assembly do not show whether this innovation was devised merely as an extension of the right of petition or whether it was suggested by some radical writing of the day. It is certain, however, that the political revolution which broke out at Lausanne in 1845 was not uninfluenced by the contemporary communistic movement of German artisans, which had its center in the canton of Vaud, and it is at least possible that the very advanced reforms then introduced are in some degree related to that movement.[51] The chief cause of the Vaud constitution of 1845, however, must be sought in the general political situation of the country. Everywhere the demand for a stronger federal union was accompanied by a corresponding demand for more democratic institutions. When the first popular wish was finally satisfied by the adoption of the constitution of 1848, the second was for a time forgotten.

But after 1860 the popular cry for more political rights was again raised and a series of cantons introduced the legislative initiative, Aargau as early as 1852,[52] Baselland in 1863,[53] Zurich, Thurgau, and Solothurn in 1869.[54]

When, looking over the general political development of Switzerland in the course of the 19th century, we endeavor to discover the causes which lead to the establishment of the initiative and of the referendum, we find that popular discontent with the ruling party was always and everywhere the most potent factor. In 1798, 1830 to 1833, and 1845 to 1848 the ruling party had become unpopular because of its very composition, which was aristocratic or oligarchical and therefore contrary to the demo-

[50] Curti, *Geschichte*, etc., pp. 148–157.

[51] Druey and Delarageaz, two of the leading statesmen of the time in the canton of Vaud, had so befriended the German communists that these compromising *protégés* claimed them as their own. Cf. W. Marr, *Dar junge Deutschland in der Schweiz*, (Leipzig 1846), pp. 287–289, 358. G. Adler, *Die Geschichte der ersten social politischen Arbeiterbewegung in Deutschland*, (Breslau, 1885), p. 69.

[52] Curti, *Geschichte*, etc., p. 208.

[53] *Ibid.*, p. 211.

[54] *Ibid.*, pp. 212–3.

cratic spirit of the times. In the latter half of the century the people were most often aroused by the partial, nepotic, or autocratic behavior of the men they had themselves elected to office.

So in Neuchatel in 1858, the referendum in financial matters was introduced as a consequence of the government's railroad policy, which was unduly favoring one particular district.[55] So in Zurich in 1869 the referendum and the initiative were adopted as protests and as safeguards against the public service corporations and large moneyed interests whose influence on the government of the commonwealth and on the administration of justice was deemed threatening to public welfare.[56] Many similar instances could be quoted.

As the initiative and the referendum were the product of discontent, it is natural that they should usually have been advocated either by minority parties or by individual insurgents. Such has in general been the case and one can say that the Swiss radical-liberal party, which has been in power for over fifty years, has on the whole opposed the further extension of popular rights. Except in the cantons where the majority is conservative, most radical leaders have either fought the initiative and the referendum or accepted them reluctantly as a necessary concession to public opinion.[57]

It is interesting also to note the constant relation existing between the movement in favor of direct popular legislation and that in favor of radical social and economic reform. Druey and Delarageaz, two of the leaders in the Vaud revolution of 1845, had been in close touch with the German communists Weitling and Marr.[58] Treichler, who perhaps contributed more than any other writer to introduce the direct popular vote in the cantons of Northern and Eastern Switzerland after 1848,

[55] Curti, *Geschichte*, etc., p. 209.

[56] *Ibid.*, pp. 215–238. Dr. J. Dubs, *Die schweizerische Democratie in ihrer Fortentwicklung*, Zurich, 2868, pp. 72 et seq.

[57] S. Deploige, *Le referendum en Suisse*, (Brussels 1892), pp. 168–172; Borgeaud, *Etablissement*, etc., p. 375; Dubs, *op. cit.*, p. 76; Dr. C. Hilty, *Theoretiker und Idealisten der Demokratie*, (Berne, 1868), p. 27.

[58] Cf. note 51.

demanded labor legislation, public workshops, and gratuitous credit for the working classes, as well as the legislative referendum in his manifesto entitled "Political Principles." [59] Karl Bürkli, one of the most zealous promoters of direct democracy in Zurich in 1869, was a disciple of Fourier.[60] Even today, after many disappointments, the initiative and the referendum have no more ardent defenders in Switzerland than the socialists.

We have now to examine the last and most important question, namely, the practical working and results of the initiative and referendum in Switzerland.

If we had hours before us and not minutes, I should seek to answer that question by making a thorough study of each individual case of conflict between the people and their representatives. I should determine the nature of the bills lost through popular disapproval and of the laws imposed by the electorate on an unwilling legislature. We could then gain a well-grounded opinion of the actual effects of direct legislation on the course of political development. As it is, I shall only give a few statistical notes on the working of the initiative and referendum in the federal government in two of the largest cantons and mention the principal legislative tendencies of direct democracy in Switzerland in the course of the last half century.

From 1874 till 1908 the Federal Assembly passed 261 bills and resolutions which could constitutionally be subjected to the referendum. Thirty of these 261 were actually voted on by the people, who ratified 11 and rejected 19 of them. The effect of the federal optional legislative referendum was then to hold up a little more than 7% of the statutory output of the Federal Assembly. During the same period the national legislature proposed 17 constitutional amendments, 12 of which were accepted, and of which 5, that is 29% were thrown out by the compulsory constitutional referendum. Since 1891 up to the present time the initiative has been used 9 times in endeavors

[59] Adler, *op. cit.*, p. 71.
[60] Curti, *Geschichte*, etc., p. 216.

to amend the federal constitution. Six of these attempts failed, 3 succeeded.[61]

From 1831 to 1910 the St. Gall legislature passed 395 bills. 36 of these were submitted to the optional referendum and in 31 cases out of 36 the referred measure was defeated. A little over 7% of the measures proposed by the legislature in the course of 80 years were defeated by the popular vote. The constitutional initiative was tried 3 times in St. Gall since its introduction in 1891 but has always failed.[62]

In the cantons where the legislative referendum is compulsory, it naturally acts as a more effective but less discriminating check on the legislature. In Berne, for instance, out of the 146 bills submitted to the popular vote during the 40 year period extending from 1869 to 1909, 35 were rejected, and 111 ratified. During the same time the popular initiative was resorted to on 9 different occasions but succeeded only 4 times.[63]

Quantitatively speaking, it can hardly be said that the people have abused their right and have unduly interfered with the activity of the legislature. No doubt one hears complaints now and then about the excessive frequency of popular votes,[64] but on examining the matter closely, one finds that these protests usually spring from a feeling of dissatisfaction with the popular verdict, rather than with the institution of the popular jury which rendered it. A beaten team is naturally inclined to find fault with the rules of the game. What evil there may be with respect to a too frequent recurrence of plebiscites carries its remedy with it, as no group of individuals and no party are apt to risk their popularity by obliging the voter to go to the polls, when he has already been wearied by too often repeated appeals to his civic conscience.

[61] Curti, *Resultate*, etc., p. 36.

[62] *Ibid.*, p. 29.

[63] *Ibid.*, p. 26.

[64] About 60% of the registered voters usually take part in the federal referendum. This percentage has fallen as low as 40% in non-contested issues and risen as high as 77.6% in the hotly fought battle over state ownership of railroads in 1898. It has not decreased in the last 50 years and is not lower in those cantons where local elections are most frequent than in others. *Ibid.*, pp. 68, 69.

The quantitative use made of the popular vote in Switzerland has on the whole been conservative. Can the same be claimed of its qualitative effect?

In order to answer this question we must naturally distinguish between the initiative, which is essentially a positive institution, and the referendum, which, like the American executive veto, with which it has often been compared in Switzerland,[65] is essentially negative in its consequences. Curti has aptly compared the referendum to a shield for warding off undesirable legislation and the initiative to a sword which enables the people to "cut the way for the enactment of their own ideas into law."[66]

The initiative has most often been used in Switzerland as a tool to undermine the position of the party in power. Thus the introduction of proportional representation, a system whose chief practical object is to strengthen minority parties, has usually been attempted by means of the initiative.[67] In several cantons it has succeeded, in the federal government, however, it has heretofore been twice defeated.[68] An initiative to introduce the popular election of the federal executive by the people has similarly been voted down.[69]

The initiative has furthermore been resorted to in certain specific instances where the emotions of the people were more deeply aroused than those of their representatives. Such has quite frequently been the case in criminal matters. The national prohibition of the strong spirituous liquor called absinth was brought about by an initiative, launched under the immediate influence of a sensational murder committed by a drunkard on several members of his family.[70] The initiative has similarly been used with varied success in attempts to suppress public

[65] For instance in the constitutional debates in Zurich in 1842, Cf. Curti, *Geschichte*, etc., p. 144.

[66] Curti, *Open letter*, etc.

[67] Curti, *Die Resultate*, etc., pp. 12, 27, 31, 32.

[68] By 244,570 nays against 169,018 yeas in 1900 and by 265,194 nays against 240,305 yeas in 1910. *Ibid.*, pp. 58, 59, 64.

[69] By 270,502 nays against 145,936 yeas in 1900, *Ibid.*, p. 59.

[70] The initiators had collected the unusual number of 167,814 signature. They carried their point with the people on July 5, 1908, by 241,078 votes against 138,669. *Ibid.*, p. 62.

houses of prostitution,[71] to prohibit vivisection,[72] to reintroduce capital punishment [73] and to reinforce penal law with respect to strike violences.[74]

A third class of measures in favor of which the initiative has been resorted to are of an eccentric, and often of an extremely demagogic nature. Such are, for example, the "right-to-work-clause," which the socialists sought to introduce into the federal constitution in 1894,[75] and the onslaught on federal finances, which was attempted in the same year, by a group of citizens, who demanded that the federal government should hand over to the cantons a sum of two francs per head of the population out of the receipts of the customs.[76] Both these proposals were voted down by tremendous majorities.[77] Their initiators had been encouraged by the success of a less perilous, if not less peculiar, measure which had been adopted in 1893. By the popular initiative a constitutional amendment, prohibiting the butchering of cattle according to the Hebrew rite, had then been added to the fundamental law of the country. This strange and illiberal measure, which had been carried amidst the indifference of the general public, thanks to the combined efforts of Jew haters (*antisémites*) and of societies for the prevention of cruelty to animals, was the first product of the federal constitutional initiative.[78]

The only constructive measure of importance which Switzerland owes this institution, is an amendment to the constitution by which the federal government in 1908 acquired the right to legislate on the subject of hydraulic resources, when any

[71] Succeeded in Zurich, but failed in Geneva. *Ibid.*, 24, 32.

[72] Partially succeeded in Zurich in 1895, *Ibid.*, p. 23.

[73] Succeeded in Zurich in 1883, but again repealed soon after. *Ibid.*, p. 23.

[74] Partially succeeded in Zurich. *Ibid.*, p. 24.

[75] Cf. Borgeaud, *Le plébiscite du 4 novembre 1894.* Revue de Droit public, 1894, p. 536. Droz, *op. cit.*, p. 474.

[76] Borgeaud, *loc. cit.*, p. 537–539.

[77] 308,289 yeas against 75,880 nays in the first case, 347,401 yeas against 145,362 nays in the second.

[78] Droz, *op. cit.*, p. 473. Borgeaud, *Le plébiscite* etc., p. 535; Curti, *Die Resultate*, etc., p. 50. The measure was carried by 191,527 yeas against 127,101 nays, the number of registered voters being upward of 660,000.

national interest was at stake.[79] This right had before been vested in the individual cantons, and the Federal Assembly, whose members are often members also of the cantonal executive boards or legislative bodies, had not seen fit to take the first steps towards depriving them of it.

The actual worth of the initiative cannot be properly estimated, as it has a potential, as well as a direct influence. Besides its positive results in Switzerland, which have fully justified neither the hopes of its friends nor the alarm of its enemies, it may have acted on the spirit of the legislatures as an animating and salutary threat. In how far this has been the case, we can but surmise, but it seems probable that the competition it establishes between the "ins" and "outs" of politics, has had a stimulating effect on the former. We cannot therefore entirely agree with Mr. Frankenthal when he suggests, at the conclusion of his Report to the Department of State that an "ounce of American primary and representative prevention" may be worth "a pound of Swiss initiative cure."[80] The initiative is not solely a cure; it is also an incentive to good, active legislation and therefore preventive of sloth and corruption.

The referendum, we have said, is essentially negative in its effects. It gives the community a chance to refuse legislative gifts. It cannot add to its institutional wealth.

Without examining the hundreds of cases in which the Swiss referendum has shown that the views of the people do not always coincide with those of their elected representatives, I will mention three great popular tendencies which it has revealed.

The first is a dislike for bureaucracy. Whenever a bill tends to increase the influence of political officials it is sure to encounter a strong opposition at the polls. Many measures, such as the federal pension bill of 1891 [81] or the federal banking bill of 1897 [82] have been rejected for just this reason, and many others, which

[79] Curti. *Die Resultate*, etc., p. 63. 304,923 yeas against 56,237 nays.

[80] Report to the Department of State by American Vice-consul at Berne, Switzerland, concerning the practical workings of the "Popular Initiative" in Switzerland. (61st Congress. Document No. 126, Washington, 1909), p. 32.

[81] Defeated by 353,977 nays against 91,851 yeas. Curti, *Resultate*, etc., p. 48.

[82] Defeated by 255,984 nays against 195,765 yeas. *Ibid.*, p. 54.

proved acceptable to the majority on other grounds, have been bitterly opposed by strong minorities on account of their bureaucratic tendencies or consequences.

Bills have also often been defeated in a referendum simply because the country was generally dissatisfied with its representatives and rulers. "Those people in Berne need a lesson," such has repeatedly been the somewhat juvenile but very human argument of the average Swiss citizen voting against some unimportant and by no means objectionable measure. This was particularly noticeable in 1884 when the referendum was demanded by nearly 100,000 voters on four federal bills at once, none of which was clearly unreasonable, but all of which were vetoed by large majorities.[83]

The referendum has furthermore worked against what one might call ideological legislation. Measures such as the "right-to-work" bill above referred to, which are grounded solely or mainly on abstract conceptions of justice, are almost certain to be defeated. The popular vote has time and again shown that the people are interested in the immediate practical benefits to be derived from a law much more than in the intrinsic excellence of its basic principle. It follows that a defeated bill may very well be taken up again by its authors, modified in some of its minor details and submitted shortly after to a new judgment with every chance of success. Such was the case in Zurich when in 1899 the people refused to contribute to the building of an art museum and reversed their decision seven years later.[84] Similarly the Swiss people vetoed a bill to introduce government ownership of railroads in 1891 and accepted an analogous measure in 1898.[85] In 1900 the people, by a majority of nearly 200,000

[83] This referendum was popularly styled the "four-hunched camel." One of the "hunches" was a bill to grant the Swiss embassy at Washington an additional yearly credit of $2000. Over 200,000 citizens thought it worth their while to vote against this act of lavish extravagance, which they suspected to be prompted by motives of personal favoritism. Curti, *Resultate*, etc., pp. 45–47.

[84] *Ibid.*, p. 14.

[85] *Ibid.*, pp. 48, 49, 56, 57. In the first vote there were 289,406 nays and 130,729 yeas and in the second, 386,634 yeas and 182,718 nays. The proposed price of the purchase, which was considered exorbitant in the first case, was the main reason for the negative verdict in 1891.

nays repudiated a sickness and accident insurance bill that had been carried in both Houses with only one dissenting vote.[86] An amended insurance bill has been passed by the Federal Assembly in the summer of 1911 and is about to be submitted to a second popular trial.[87]

The third tendency shown by the referendum is a strong dislike for extravagance or, better said, for its necessary consequence. The people are by no means averse to fine public buildings and cheap government service, but when it comes to footing the bill they are very apt to object. This has been the case in the cantons and in the larger municipalities, where property and income taxes prevail, more than in the federal government, which relies on indirect taxation for its expenditures. The unfavorable financial situation of several commonwealths and cities is to be ascribed, to no small degree, to the referendum and to the inconsistent use that is made of it. Expenditures are tacitly approved, light, water rates and the like lowered, but all attempts at a corresponding increase of taxes, especially on small and moderate incomes, are ruthlessly voted down.[88] The result too often is a steady aggravation of public indebtedness, as in Basle and Geneva, or an unduly high rate of taxation on larger fortunes, with fiscal evasion as a logical consequence, as in Zurich and St. Gall.

It is time to conclude. I will not take up one after another all the standard arguments pro and con popular votes and discuss them academically as has so often been done. I will say, however, that, viewed in the light of Swiss experience, the apprehensions of those who predict that the initiative and referendum lead to social revolution are as unfounded as the fears of those who expect these institutions to work against all cultural

[86] Curti, *Resultate*, etc., p. 57.

[87] On February 4th, 1912, this bill was adopted by a popular majority of nearly 50,000 yeas.

[88] Cf., *Ibid.*, pp. 12, 13, 14, 21, 26, 30. Almost every month the daily press in Switzerland records some incident of this kind.

progress.[89] In Switzerland their result has simply been a legislation eminently characteristic of the national temperament. The Swiss have therein shown themselves as they are, a well-schooled, practical, unimaginative, thrifty and enterprising people, averse to high-flown political speculation, but awake to the possibilities of careful progress; jealous of their local autonomy, but not stubbornly loath to sacrifice it on the altar of national unity when general interest clearly demands a sacrifice; suspicious of all superiority and hostile to all social and economic privileges, but still more suspicious of and hostile to all policies which tend to destroy the privileges of superior wealth and ability by encroaching too boldly on the personal liberty of all; impatient of arbitary rule, but willing to submit to authority when imposed by the will of the majority and especially when backed by historical tradition; unsentimentally sympathetic to deserving poverty, but almost harshly unfeeling for thriftless indolence.

The initiative and referendum have sometimes been accused of making party government impossible. This criticism,—which would perhaps more justly apply to proportional representation, another novel electoral scheme which is making rapid progress in Switzerland,—is not borne out by Swiss experience. All that can be said, is that popular votes have somewhat strengthened the influence and self-confidence of minority parties.

It has also been claimed that they tend to weaken the elected legislators' sense of public responsibility by transferring the right of final decision on important measures to the people at large.[90] Where the referendum is compulsory this may be true. Where it is optional however, I feel inclined to attribute the lowering of standards, which unfortunately seems to have

[89] Such pessimists have not been wanting in Switzerland. Answering the popular "safety-valve" or "blood-letting" argument invoked in favor of direct legislation, Cherbuliez in 1843 expressed himself very deprecatingly on the subject of "those anticipating remedies which occasion the very evils they are meant to prevent," by "inoculating the masses with the virus of revolution." *op. cit.*, vol. I., p. 89. Bluntschli was also very skeptical. Cf. his views in his *Geschichte des schweizerischen Bundesrechts*, (2 vols., 2nd ed., Stuttgart, 1875), vol. ii., p. 543.

[90] Dubs, *op. cit.*, p. 20. Droz, *op. cit.*, p. 464. A. B. Hart, *Actual Government* (New York, 1906), pp. 79, 81.

taken place in Switzerland in the course of the last generation, to other causes, and especially to the anonymous, impersonal committee form of procedure which prevails in all Swiss legislatures. All law-makers are afraid of a popular veto and this may tend to make them, not reckless or careless, but on the contrary unenterprising and over-timid. Against this very real danger the initiative seems to be the best safeguard.

Among the many stock arguments in favor of direct popular legislation, I will mention but one, which Swiss experience has has undoubtedly shown to be sound, and that is the educational argument.

All political institutions that are democratic make for public enlightenment. Under the representative system however, discussions on public policy too often degenerate into disputes on personal merits. One votes for or against individuals rather than for or against ideas and the successful candidate is very apt to be the popular orator, whose genial appearance, winning ways, and often unscrupulous, demagogical methods please the people by flattering their prejudices and their passions. In the referendum, on the other hand, objective argument counts for much more. And everyone will agree that it is morally, as well as intellectually, better to vote at the dictate of one's reason rather than on the impulse of one's instincts. It has been time and again shown in Switzerland that a politician who has once gained the people's good will can repeatedly favor measures to which his electors object, without in the least thereby injuring his popularity.

A humorist, quoted by Professor Borgeaud, [91] once remarked: "The Swiss are a singular people; they disown their representatives and then they reelect them!" This illustrates what is perhaps less a singularity of the Swiss, than an inconsistency common to the whole human race.

Who, in the arena of politics as well as in the realm of romance, does not sometimes disown the choice of his natural sympathy, when he is reasonable? And who does not ratify that choice when he is passionate? And is any one ever

[91] In an article published in the Revue de Droit Public, 1896, p. 528.

quite reasonable and quite dispassionate in matters of personal preference?

To my mind the greatest advantage of the optional referendum resides in the fact that, on some momentous occasions in the life of a nation, it gives reason a hearing amidst the din and confusion of current politics.

It has not been my purpose to defend a cause, but to present the results of a practical experiment, and this I have sought to do, as impartially and concisely as possible.

I will say in conclusion that no community in Switzerland having once exercised the rights of initiative and referendum, has ever abandoned them.[92] It by no means follows that these rights are absolutely just in their essence nor always and everywhere beneficial in their consequences. The view one takes of the subject depends on one's political standpoint and is biased by one's general social and ethical philosophy. The question of popular votes is, to my mind, simply a part of a vastly greater problem, the problem of democracy.

Those who, like Taine, believe that "a nation may perhaps say which form of government it likes, but cannot say which it needs," will not hestitate to condemn the plebiscite in every form.

The opportunists in politics,—and who is not, to a certain degree at least, a political opportunist,—will judge the tree by the fruit thereon, and the fruit by the standards of his tastes and interests.

But the sincere and thorough-going democrat, for whom popular sovereignty is more than a mere phrase, who holds that a nation is the only competent arbiter of its likings as well as of its needs, and who maintains that, as regards its own destiny, it has the right even to be wrong, cannot consistently repudiate institutions, whose sole purpose and whose main consequence, is to adjust political relations so that the untrammeled will of the majority may rule supreme.

[92] In only two cases have popular votes been restricted. Berne in 1880 abandoned the compulsory referendum on the budget, and Zurich in 1899 somewhat limited the scope of its general compulsory plebiscit. Curti, *Resultate*, etc., pp. 4, 5.

VILLAGE GOVERNMENT IN NEW ENGLAND

FRANK G. BATES
Indiana University

Throughout the United States there are provided special, though simple, forms of municipal government for villages under the various names of village, borough or town. Oddly enough the notable exceptions to this general practice are to be found in New England, the region which includes three of the most densely populated states in the Union. Moreover, it is in the two most densely populated of these that the least progress has been made toward the development of an orderly system of village government.

At one time the whole area of New England, except certain unorganized tracts in the north, was under town government and so continued until the growth of urban conditions led to city incorporation. In every case incorporation was by special act, and such is the method employed in every case to the present time. The readiness of the town government to assume the functions proper to an urban community not only retarded city incorporation, but prevented, in large measure, the growth of special forms of government for villages. It is not unusual to find towns which include within their limits many square miles of rural territory, providing all or part of its population with fire protection, water, sewers, lights, side-walks, parks and libraries. But there has grown up, sometimes under general laws though more commonly as a result of special legislation, a heterogeneous collection of municipal governments and taxing authorities variously denominated villages, fire, water, lighting, sewer, highway and improvement districts, producing a confusion comparable only to the conditions in England before the municipal reforms of recent date.

With respect to the subject under consideration the New

England states may be arranged in a descending scale beginning with Vermont where a fairly complete system of village government is in operation, and ending with Rhode Island where no general provisions whatever have been made. To such an extent does practice vary that the subject may best be considered by taking up each state separately.

In Vermont, the most nearly rural of the New England states, the incorporation of the larger towns proceeded slowly. Down to 1890 there existed but two cities, and in 1910 there were but six, ranging in population from 1,483 to 20,468. In the first half of the nineteenth century, the state had already begun the practice of incorporating villages by special act, and by 1850, the institution may be considered as having been fully established.[1] Such special acts appear with increasing frequency and at each session of the legislature since 1885 from ten to thirty acts of incorporation or amendments to such acts have been passed. In 1910 there were fifty-six incorporated villages in the state, ranging in population from 42 to 8,098. About one half of these have a population of less than 1,000 persons and in most cases the incorporation has been by special act.

The source of village authority is the village meeting which, besides electing village officers, is a legislative assembly. Among the powers conferred on this meeting are these:—to lay taxes and issue bonds, furnish various public utilities, extend village boundaries, and pass by-laws on many specifically enumerated subjects. In a typical small village the corporation has been authorized to pass by-laws concerning the following subjects:—streets, side-walks, parks, police, street-lighting, nuisances, sewers, water supply, markets, building, fire protection, licensing, and certain other minor matters.[2] Power is given to all villages to borrow money and levy taxes for corporate purposes. The village is also liable for its share of the general assessments for town purposes.

[1] Those incorporated before 1850 were Woodstock, 1836; Middlebury, 1845; Castleton, 1847; Rutland, 1847; Bennington, 1849.

[2] West Glover, Laws 1910, No. 322.

The chief executive authority is vested in a board of from three to seven members usually known as trustees, though in a few instances called "bailiffs." [3] Trustees are usually elected at large, though in certain cases, by and from specific wards,[4] and in one case from wards though by the electors of the whole village.[5] Their term was formerly uniformly for one year but recently there is a tendency toward a board of three or six, one third of whom retire each year.[6]

The presiding officer of the board is the president, elected either by the electors, or by the board from its own number. When elected by the people the president is ordinarily the presiding officer in the village meeting,[7] but when otherwise chosen a moderator chosen by the meeting presides over the deliberations.[8] In case neither moderator nor president is provided the senior trustee presides.[9] In rare cases the president has been given the veto.[10]

The trustees are the general executive agents of the village meeting and "have charge of the prudential affairs"[11] of the village, or the "management of the affairs of the village and the necessary powers for that purpose."[12] They are a highway authority with power to lay out, maintain and close streets and walks. Sometimes they are fire wardens with appropriate powers. Besides the trustees there are usually elected a clerk, treasurer and collector and frequently fire marshal, auditor, water commissioners, chief engineer and prudential committee.

The village was first recognized as an institution in the state in 1819 though it was not then given corporate powers.[13] In

[3] Bellows Falls, Laws 1880, No. 201; Readsboro, Laws 1892, No. 125.

[4] Winooski, Laws 1880, No. 219.

[5] Bennington, Laws 1904, No. 231

[6] Springfield, Laws 1904, No. 243; Bennington, Laws 1904, No. 231; Essex Junction, Laws 1896, No.158.

[7] West Glover, Laws 1910, No. 322.

[8] Windsor, Laws 1884, No. 224; Bennington, Laws 1904, No. 231; Poultney, Laws 1904, No. 241; Concord, Laws 1904, No. 234.

[9] Newbury, Laws 1896, No. 164.

[10] Swanton, Laws 1888, No. 252.

[11] Poultney, Laws 1904, No. 241.

[12] Waterbury, Laws 1882, No. 205.

[13] Laws 1819, c. 20.

1839 the act of 1819 was consolidated with the law governing the formation of fire districts and village meetings were provided for but with the sole power of forming themselves into a fire society.[14] The General Statutes of 1863 provided for the first time a general law for incorporating villages, prescribing the form of organization and the functions.[15] The habit of special legislation was so firmly fixed that few, if any, villages availed themselves of the privileges of the act. In 1904 a commission was appointed to investigate existing village charters, consider the possibility of a general act for the incorporation of villages and, if expedient, to draw a bill for the purpose.[16] The resulting legislation[17] provided that the selectmen, on petition of a majority of the voters residing in any village of thirty or more houses, may establish a village corporation. All persons eligible to vote in town elections and who have paid taxes are voters of the village. At the village meeting are to be chosen a clerk, treasurer, collector and five trustees to hold office for one year. The corporation in village meeting may vote taxes for village purposes and enact by-laws consistent with state law, particularly with respect to streets, commons, shade trees, slaughter houses, and watch and lighting; restrain animals; regulate building, chimneys, the manufacture and keeping of ashes, powder and combustibles; provide fire protection and libraries, and impose fines not to exceed twenty dollars. The duties of the trustees under this act are to see that the by-laws are executed, appoint police officers, direct prosecutions, and "take care of the affairs of such corporation and perform the duties legally enjoined on them by such corporation." Apparently the act has had little practical effect and special acts of incorporation have been as frequent as before.

Following the creation of the Public Service Commission the state legislature placed with that body the granting and amendment of village charters.[18] Incorporation is granted upon

[14] Revised Statutes, 1839, c. 14.
[15] General Statutes, 1863, c. 16.
[16] Laws 1894, No. 348.
[17] Revised Statutes, 1894, c. 142.
[18] Laws 1910, No. 115.

petition stating the territory to be included, the form of organization desired, and the functions proposed to be exercised. After public hearing and possible amendment the order of incorporation issues. The enumeration in the law of the powers which may be conferred on the village by the commission includes those usually given in the past, such as the subjects of fire protection, sewers, waterworks, lighting, highways, parks, schools, hospitals, and to raise money by taxation or loans for these purposes. Amendment to the charters of villages are to be by the commission. This act introduces into American municipal government the novelty of incorporation by a central administrative authority. This step toward central control seems to have been taken as a result of the recognition of the village as a quasi-public body analogous to the public service corporations themselves. It will be a matter of interest to note the influence of this legislation upon the stream of special acts relating to cities and villages hitherto flowing from the legislature. No control of these villages by the commission after their incorporation is contemplated, but by another act villages, along with cities, fire districts, towns and school districts, are required to render annual financial statements to the secretary of state.[19]

Besides the incorporated villages there have been created in Vermont, as elsewhere in New England, governing authorities even more simple in form and more narrow in function, called fire districts and lighting districts. The fire district, in this state, originated in an act empowering the selectmen, upon petition, to lay out the bounds of villages for the purpose of forming fire societies.[20] These societies had no taxing power but might hold property and make by-laws for fire protection. Later, the privilege of forming fire societies was extended to organized villages,[21] and in 1854 a general law for the creation of fire districts was passed.[22] This act, with, certain amendments,

[19] Laws 1910, No. 11.
[20] Laws 1832, No. 18.
[21] Revised Statutes, 1839, c. 14.
[22] Laws 1854, No. 7.

remains in force today.[23] The selectmen, on application of twenty freeholders, may establish a fire district which shall elect annually a clerk, treasurer, collector and a prudential committee of three. The district may vote taxes to provide the means of fire protection, and may adopt by-laws for the prevention of fires.[24]

Few cases appear of fire districts organized under special acts but there are on the statute books numerous acts granting additional powers in special cases. Among the powers thus conferred are to be found the following:—to introduce a water supply,[25] to maintain street lights;[26] and to build sewers.[27] The multiplicity of applications for broader powers for fire districts led, in 1908, to an amendment to the general law giving them authority to lay taxes for providing lights and sewers.[28]

In addition to the villages and fire districts in the state, there have been created from time to time, by special act, lighting districts for the sole purpose of supplying lights.[29] The villages and fire and lighting districts make up a reasonably adequate system of village government.

In Maine, which stands next in order to Vermont with respect to the development of village government, the acceptance of the institution seems to have been far less cordial than in the latter state. The incorporation of villages began as early as 1850 but the year 1890 found only nine such corporations in existence. At the same time there has been no reluctance to grant city charters to places of moderate size. Of the twenty cities in the state, thirteen have a population of less than 10,000 and four have less than 5000. By 1910 the number of villages had risen to twenty-one, and included places varying in size

[23] Laws 1870, No. 41.

[24] Laws 1910, No. 117.

[25] Brandon, Fire Dist. No. 1, Laws 1880, No. 174; Readsboro, Fire Dist. No. 1, Laws 1886, No. 235.

[26] Manchester, Fire Dists. No. 1 & 2, Laws 1896, No. 280; Castleton, Fire Dist. No. 1, Laws 1900, No. 192.

[27] Poultney, Fire Dist. No. 1, Laws 1894, No. 284.

[28] Laws 1908, No. 88.

[29] Chester, Laws 1892, No. 199 and Laws 1896, No. 226; Newbury, Laws 1904, No. 260.

from 83 to 5,427. Nine of these had less than 1,000 inhabitants.

In the absence of general laws, each village exists by reason of a special charter. The first mention of organized villages in the general laws is in 1857.[30] The revision of 1903 provides that "towns, cities and village corporations may make by-laws and ordinances not inconsistent with law" for the following purposes: —managing their prudential affairs, police regulation, health, regulation of the sale of certain commodities, layout and maintenance of sidewalks, trees, parks, squares and monuments, regulation of building, regulation of fares, the removal of snow and the location of markets.[31] The only instance found of a general law applicable to all villages alone is that whereby villages located in a town not maintaining a public library may lay taxes to support such an institution.[32]

Despite minor variations, there is a well-defined typical form of village organization. The officers are usually three assessors, clerk, treasurer, collector, one or more fire wardens and such others as are provided in the by-laws, all elected for one year, except in rare instances where one assessor is elected each year for a term of three years. The assessors are the general municipal officers of the corporation and "shall have charge of its affairs and of the expenditure of money therein."[33] In certain instances they are expressly clothed with the highway and sewer authority of selectmen,[34] and may appoint such additional officers as are provided for in the by-laws.[35] In two instances it is required that the assessors be real estate owners.[36]

The legislative authority is the village meeting, presided over by a moderator elected at each meeting. This body has power to raise money by taxation for and to pass by-laws concerning a water supply and fire protection in all cases. To these are

[30] Revised Statutes 1857, c. 3.
[31] Revised Statutes, 1903, c. 4.
[32] Revised Statutes, 1903, c. 57.
[33] Sangerville, Laws 1911, c. 120.
[34] York Beach, Laws 1901, c. 455.
[35] Porter Kezar Falls, Laws 1911, c. 217.
[36] Wilton, Laws 1907, c. 224; Sangerville, Laws 1911, c. 122.

added powers over some or all of the following subjects:—sidewalks, lights, sewers, police, shade-trees, schools, street sprinkling, and the regulation of the sale of milk and of the removal of garbage.[37] The care of highways is exercised in conjunction with the town, or the village receives a portion of the town's highway money to expend independently.[38] To these specific powers are sometimes added such general grants as for "the efficient management of its affairs"[39] or to do anything "not inconsistent with the constitution and laws of this state as they may deem efficient for the better governing of the corporation."[40]

The growth of colonies of summer residents along the coast has resulted in the development of a slight variation from the usual type of village government. In Squirrel Island and Bayville, typical cases of this kind, the assessors are replaced by five overseers, and the electorate includes the voters of the town resident in the village and in the one case members of the Squirrel Island Association, and in the other of the Bayville Improvement Association. To these are added in both cases lot occupiers in the village. In these two instances the town is relieved of responsibility for roads and schools, and the town turns over to the village sixty per-cent of the taxes collected within the village limits.[41] An example of the reluctance felt to incorporating a village extending into two towns is furnished in the case of Kezar Falls which lies in the two towns of Parsonsfield and Porter. To meet this condition two village corporations were formed, "Parsonsfield Kezar Falls" and "Porter Kezar Falls", chartered on the same day, with practically identical powers, and with express permission to join with each other for certain purposes.[42]

Lacking a wider acceptance of the principle of village incorporation there have appeared bodies of narrow scope for providing

[37] York Beach, Laws 1901, c. 455; Prospect Harbor, Laws 1907, c. 398; Rumford Falls, Laws 1907, c. 392; Kittery, Laws 1905, c. 350.

[38] Kittery, Laws 1905, c. 350; York Beach, Laws 1901, c. 455.

[39] Sangerville, Laws 1911, c. 122.

[40] Parsonsfield Kezar Falls, Laws 1911, c. 216.

[41] Squirrel Island, Laws 1903, c. 55; Bayville, Laws 1911, c. 227.

[42] Parsonsfield Kezar Falls, Laws 1911, c. 216; Porter Kezar Falls, Laws 1911, c. 217.

specific utilities. A unique and interesting instance is the incorporating of the two villages of Dover and Foxcroft under the title of the "Dover and Foxcroft Fire Company," with power to provide a fire department and a water supply.[43] The suffrage is restricted to tax payers, and the officers are a supervisor, clerk, treasurer, collector, three assessors and four fire wardens.

Under the name of "water district" portions of a town or city, or parts of two or more towns or cities are incorporated for the purpose suggested by the name. The territory adjacent to Farmington village is thus incorporated, with a board of three assessors.[44] A part of the city of Augusta is incorporated in this way and its affairs administered by three trustees appointed by the city council.[45] The trustees of the Brunswick and Topsham Water District are appointed by the selectmen of the two towns concerned.[45] The Livermore Falls Water District is created to supply water to the village and the surrounding towns.[47] Kennebec Water District includes the city of Waterville and the village of Fairfield.[48]

Having incorporated the first cities in New England in 1784, Connecticut led the way by creating, under the title of borough, the first village corporation in New England.[49] Others followed with increasing frequency until, by 1850, nineteen boroughs had been formed. Several of the earlier ones have become cities and others have surrendered their charters. The number in 1910 was twenty-six. No maximum or minimum of population for boroughs is fixed by law. While, in 1910, of the eighteen cities in the state, five had less than 10,000 inhabitants, two boroughs[50] exceeded that number and six were larger than the smallest city. The greater number range in population from 1,000 to 7,000, but the smallest has a permanent population of but 34.[51]

[43] Dover and Foxcroft, Laws 1863, c. 262; Laws 1903, c. 11.
[44] Laws 1909, c. 376.
[45] Laws 1903, c. 334.
[46] Laws 1903, c. 158.
[47] Laws 1907, c. 390.
[48] Laws 1905 c 152. See also Gardiner, Laws 1903, c. 82.
[49] Bridgeport, Acts and Resolves, May 1800, p. 535.
[50] Naugatuck and Torrington.
[51] Fenwick, a summer cottage settlement.

The borough organization, though always created by special act, conforms to a general type well represented by Farmington.[52] The usual corporate style, "The Warden, Burgesses and Freemen of the Borough of —" suggest the English ancestry of these corporations. Every resident elector and any freeman resident in the town and owning real or personal property rated in the borough at five hundred dollars is a freeman of the borough.[53] In the earlier charters any non-resident owning real estate of any value or conducting a regular business within the limits of the borough, might become a freeman of the borough.[54] In the earliest charters the non-resident freemen were on an equality with the residents, but later ones withhold from non-residents the right to hold office.[55] In charters granted in 1847 and 1849 this class was first denied rights as freemen.[56]

The officers are usually a warden and six burgesses who together constitute the council. The burgesses hold office either for one year or for three years. In the latter case two are renewed each year.[57] One case occurs in which the election is annual but no elector may vote for more than three of the six burgesses to be chosen.[58] Besides the officers already mentioned there are elected annually a clerk, treasurer, assessors and a sheriff, sometimes called bailiff. The warden is the chief executive officer and is a member of the council. The council makes by-laws, has general oversight of the prudential affairs of the borough and acts as a board of health. Taxes are levied by the freemen, in borough meeting.

The powers of the earlier boroughs were strictly enumerated and usually included the subjects of:—markets, streets, nuisances, wharves, shade trees, walks, fire protection, watch, burials, lights and estrays.[59] To these were added, from time

[52] Laws 1901, c. 375.

[53] Laws 1901, c. 375.

[54] Bridgeport, Acts and Resolves, May 1800, p. 535; Stonington, Private Laws, vol. I, p. 216; Guildford, Private Laws, I. 190.

[55] Clifton, Private Laws, I. 174.

[56] Private Laws, I. 195, 197.

[57] Ridgefield, Laws 1901, c. 19.

[58] New Milford, Laws 1897, c. 329.

[59] Bridgeport, A. & R., May 1800, p. 535.

to time, water supply, sewers, building regulation and various minor topics. After 1847 the enumeration of the usual powers is sometimes dispensed with and instead it is provided that the new borough shall have the powers of others within the state. In these cases special powers in addition to the usual ones are specifically mentioned.[60]

The boroughs of Fenwick and Woodmont, summer colonies, originally organized as improvement districts, have retained some peculiar features. In Fenwick the body of freemen include besides resident freemen, all electors of the state who own real estate in and are domiciled in the borough for two months of the year.[61] In Woodmont persons who are electors in the state and tax payers in the town, who are domiciled in the borough one month are made freemen. Persons owning real or personal property in the borough to the value of one hundred dollars, though not resident at all, may become freemen without the power to hold office. Citizenship and voting in either of these corporations is no bar to voting elsewhere in the state.[62]

The town of Naugatuck is now consolidated and made coterminous with the borough of the same name.[63] All rights held by and duties imposed on towns for the support of the poor and insane, and schools, and the construction of highways are transferred to the borough. The borough meeting chooses, besides the usual officers, three selectmen elected on general ticket, who perform such of the usual functions of that office as have not been transferred to borough officers. For taxing purposes the borough is divided into two districts, one including the former limits of the borough and the other the remaining part of the old town.

At one time it seemed probable that there would develop, below the borough, a class of corporations called villages. In 1818, the

[60] Private Laws, III. 195, 197; Danielson, Laws 1903, c. 419; Groton, Laws 1905, c. 204, 340; Winsted, Laws 1905, c. 164.

[61] Fenwick, Laws 1899, c. 271.

[62] Woodmont, Laws 1903, c. 431.

[63] Laws, 1895, c. 185.

"Village of Litchfield" was chartered.[64] The citizens elected annually a president, clerk and collector, and were given power to lay taxes for fire protection, water supply and side-walks. Taxes were assessed by assessors appointed by the county court to make assessment "with reference to the comparative danger of destruction by fire to which such property may be exposed, and also with reference to the benefits conferred." Four years later, the village of Weathersfield was incorporated with a board of seven trustees. The inhabitants of the First Ecclesiastical Society of Weathersfield living outside the limits of the village were given the rights of citizenship in the village.[65] The village functions were restricted to providing fire protection and regulating the sale of fuel. Village incorporation ceased with these efforts. Litchfield became a borough in 1879, but as late as 1888 in the General Statutes there appears a provision "that there shall be and remain in the town of Weathersfield the village of Weathersfield."[66]

The influences which produced the boroughs of Fenwick and Woodmont have led to the creation of improvement associations.[67] All owners of land or cottages are made members of the association. The right to vote is sometimes restricted to permanent residents of the state though non-residents may vote by proxy.[68] In one case plural voting is allowed at the rate of one vote for each one hundred dollars of property.[69] The administrative authority is vested in an "executive board," "board of managers," or "sanitary board" of from three to twelve members. Powers are granted to the associations in matters of police, lighting, street improvement, garbage removal, pier construction, sewers and licenses, and for laying taxes for these purposes.

Fire districts have been created for many years with powers,

[64] Private Laws, II. 1514.
[65] Private Laws, II. 1517.
[66] General Statutes, 1888, c. 3.
[67] Grove Beach, Laws 1895, c. 88; Short Beach, Laws 1895, c. 63; Laurel Beach, Laws 1899, c. 148; Cosy Beach, Laws 1901, c. 442; Pine Orchard, Laws 1903 c. 409
[68] Laws 1895, c. 63.
[69] Laws 1899, c. 148.

primarily, to provide fire protection and a water supply.[70] To these powers have been added one or more of these:—to sprinkle and light streets, provide sewers, sidewalks, police and to produce gas and electric light for private supply.[71] The suffrage is sometimes extended to all voters,[72] and sometimes restricted to taxpayers.

The inhabitants of Windham living on certain highways were, in 1814, incorporated as the "Center District of the Town of Windham"[73] with the special powers suitable to a highway district. There occurs in the state one example of a "sewer district,"[74] and one "water district."[75] In certain cases school districts have been authorized to provide sewers, water or fire protection.[76]

In 1902, a general law was passed providing for the incorporation of "districts for fire, sewer and other purposes" with authority to supply fire protection, lights, sewers, walks and police.[77] As they are created by the selectmen and make no return to any central authority, no means is available of securing data as to the number or activities of the corporations formed under this law.

Although New Hampshire has provided a uniform method of incorporating villages, the narrowness of the powers conferred and the infrequency of its use have caused it to have little effect on the municipal life of the state. The beginnings of a general law for minor municipal corporations is found in an act of 1849 providing for "Village Fire Districts."[78] By special act there were incorporated, from time to time, "village fire

[70] In some cases these have been given the name "Fire Associations." Norwich, Priv. Laws V. 257; New Hartford, Priv. Laws, 1889, No. 216; Kent, Priv. Laws 1885, No. 143.

[71] Priv. Laws 1887, No. 135; Laws 1897, c. 129; Laws 1899, c. 41, 493; Laws 1903 c. 40, 301.

[72] Laws 1899, c. 128; Laws 1887, No. 135.

[73] Priv. Laws I. 611.

[74] Norfolk, Laws 1899, c. 178.

[75] Manchester, Laws 1907, c. 453.

[76] Enfield, Priv. Laws 1887, No. 68, 1889, No. 286.

[77] Laws 1902, c. 123.

[78] Laws 1849, c. 852.

precincts" and "village districts." In 1891 the name "village district" was substituted for all such areas created under general law. Originally restricted to furnishing means of fire protection, the powers of the village district have extended to include as well, street lighting and sprinkling, water supply, sewers, police, sidewalks and shade trees.[79] The officers are a moderator, clerk, treasurer, and three commissioners, all elected for one year. Taxes levied by the district are assessed and collected by the town officers. Incorporation is by petition to the selectmen followed by acceptance by the voters.

At the same time village districts have been incorporated by special law,[80] and other areas, already in existence, with narrower authority have been given, by the same method, one or more of the powers enumerated in the general law.[81] To these have been added authority to establish a reading room,[82] furnish music on public occasions,[83] the powers of mayor and aldermen in cities concerning sidewalks and sewers,[84] the powers of selectmen concerning poles and wires,[85] authority to establish water works and lighting plant.[86] The number of commissioners is usually three,[87] and the term one year, though there is a tendency to a three year term with one commissioner retiring each year.[88]

In addition to the authorities already described, there are to be found single instances of the following kinds of corporations: —A "sewer precinct" to be created by the vote of the town with power to build sewers;[89] a "water precinct";[90] a "san-

[79] Statutes 1901, c. 53.

[80] Littleton, Laws 1893, c. 176.

[81] Hanover, Laws 1881, c. 239; Rochester, Laws 1881, c. 250; Woodsville, Laws 1899, c. 196; Lisbon, Laws 1903, c. 224.

[82] Littleton, Laws 1893, c. 176; Conway, Laws 1907, c. 200.

[83] Ibid.

[84] Woodsville, Laws 1899, c. 196.

[85] Lisbon, Laws 1903, c. 224.

[86] Plymouth, Laws 1893, c. 228; Goffstown, Laws 1891, c. 269, 1895, c. 261; Meredith, Laws 1893, c. 231; Wolfeborough, Laws 1897, c. 183.

[87] In Woodsville, Laws 1887, the number is five.

[88] North Walpole, Laws 1893, c. 292; Lisbon, Laws 1903, c. 224.

[89] Claremont, Laws 1889, c. 245.

[90] North Conway, Laws 1905, c. 170.

itary district" with a sanitary inspector appointed by the selectmen;[91] a "highway precinct" with the powers of a city or town over highways, sidewalks and sewers and administered by a bi-partisan board of commissioners three in number, one being chosen each year,[92] and a "lighting precinct."[93] Each of these corporations is a special taxing authority.

In Massachusetts and Rhode Island, the two most densely populated of the United States, where, in most respects, conditions are quite similar, one important difference exists. In Massachusetts the development of a new center of population in a town has led commonly to a prompt division of the town, but in Rhode Island there is less inclination to allow political lines to adjust themselves to economic and social boundaries and towns are not readily divided. One result is that Massachusetts towns, with their greater unity, have been more ready to assume the functions of urban municipalities. In neither of these states is there a tendency to early incorporation of cities. Of the thirty-three cities in Massachusetts, in 1910, none fell below 14,000 population, while eight towns exceeded this size, and twenty-one had a population of more than 10,000. In Rhode Island the smallest city had over 21,000 inhabitants and the largest town over 26,000. It must be remembered that because of the custom of incorporating the whole area of a town as a city, some cities include large rural areas or are made up of several small but distinct urban centers, no one of which would aspire to become a city by itself. Likewise some towns are of a very large area and are made up, also, of distinct urban centers. In both these states, then, the distinction between city and town is political rather than social one.

The reluctance of Massachusetts towns to provide protection from fire in the more densely populated places led to the creation by special acts of fire districts, and as early as 1844 the framing of a general law on the subject.[94] This law as amended from

[91] Newbury, Laws 1897, c.11.
[92] Littleton, Laws 1891, c. 184.
[93] Concord, Laws 1911, c. 314.
[94] Acts and Resolves, 1844, c. 152.

time to time still reveals a conviction in the public mind that the town is the proper administrator of such functions.[95] No fire district can be organized under the general law until the town has first been requested and has refused to give such protection. The town having refused, in a district of 1,000 inhabitants, or of 500 inhabitants, in a town of less than 2,000, the selectmen or a justice may, on petition call a meeting to consider organization. Such a district, when organized, shall have power to provide fire protection, a water supply and street lights, and support them by taxation. The officers of the district are a moderator, clerk, treasurer and prudential committee. By-laws of the district must receive the approval of the superior court.

Alongside the districts thus created are others chartered by special act,[96] and with powers not materially different from those conferred in the general law. Special act is resorted to freely to grant additional powers, particularly of a financial nature.[97] Freemen of the corporation are the resident taxpayers.[98] An analogous institution with perhaps a broader future, had its origin in 1870.[99] The town meeting may authorize the organization of a district of not less than 1,000 inhabitants, as an "improvement district," with authority to provide street lights, police, sidewalks, and libraries.[100] The affairs of such districts are administered by officers of similar titles and powers as those of fire districts.

A third institution established by law is the "watch district" having powers "for protection of property against fire, thieves and robbers, and for keeping the streets quiet in the night time through the maintenance of a police force." Such districts may be organized in any village of 1,000 inhabitants.[101]

[95] Revised Laws 1902, c. 32 and Supl.

[96] Belchertown, A. & R. 1908, c. 310; South Hadley, No. 2, A. & R. 1909, c. 239.

[97] Shelburne Falls, A. & R. 1905, c. 402; Wareham, A. & R. 1907, c. 178; Greenfield, A. & R. 1908, c. 506; Hinsdale, A. & R. 1910, c. 642.

[98] Belchertown, A. & R. 1908, c. 310.

[99] A. & R. 1870, c. 332.

[100] Revised Laws 1902, c. 25.

[101] Revised Laws 1902, c. 332.

In addition to the foregoing forms of organization there exist by special acts of incorporation, "water supply districts" sometimes also possessing authority to supply electric lights.[102] In all these different kinds of "districts" the persons incorporated are the persons "liable to taxation in said town and residing within" certain prescribed limits.[103]

As the first step toward the substitution of a uniform system of village government in place of the present confused and confusing situation there was introduced in the General Court, in 1908, an act for "the establishment of village limits for the purpose of securing public conveniences and improvements, and authorizing the levying of taxes for the same."[104] The organization was to be brought about at a village meeting called by the selectmen on petition of a majority of the voters in the proposed district and the corporation was to include, not only all taxpayers, but all voters. The only officers prescribed were a president and clerk. The authority of such village was to extend to the providing of "sidewalks, sewer or public lighting systems, or any other improvements of a public nature." To the present time no legislation has resulted from this movement.

Rhode Island has made no progress whatever toward a system of village government though the density of population and the comparatively large area of many of the towns would appear to offer a promising field for such a development. The same intense individualism which prevented the development of the towns into social units has hindered the growth of a public demand for village organization. No area smaller than the town is known to the general law though certain lesser taxing authorities have been incorporated by special act. The fire district form of organization is the only one which has been made use of extensively, and is usually authorized to provide fire protection and a water supply.[105] To these powers have been

[102] So. Deerfield, A. & R. 1902, c. 486; Dracut, A. & R. 1905, c. 433; Hadley, A. & R. 1905 c. 146; Miller's Falls, A. & R. 1907, c. 558.

[103] Belchertown, A. & R. 1908, c. 310.

[104] House Bill No. 286.

[105] Phenix, Acts and Resolves 1872, p. 58; East Greenwich, A. & R. 1882, p. 238; Arlington, A. & R. 1889, c. 797; Watch Hill, A. & R. 1901, c. 946.

added in the more liberal charters, or by amendment to earlier ones, the power to provide street lights,[106] public libraries,[107] police and a bridewell,[108] a sewer system,[109] gas supply,[110] road improvements and side-walks,[111] and electric power.[112] The officers etc. of these districts are usually a moderator, clerk, treasurer, board of fire wards, and assessors.

Similar to the fire district in organization is the "lighting district" created for the purpose indicated by its name.[113] No serious attempt is made to have fire district lines conform to town lines, and the confusion is heightened in at least one case from the fact that a lighting district is superimposed on a fire district but is not coterminous with it.[114] Beyond these somewhat rudimentary beginnings nothing approaching village government is to be found in the state.[115]

The study of these minor forms of municipal incorporation is hampered by the lack of exact information. In the three states of Vermont, Maine and Connecticut, statistics of population of villages and boroughs is available from the census of 1910, but in all the New England states, with respect to the various districts:—fire, lighting, water, sewer, highway and improvement, —no statistics whatever are to be found. In four states these corporations come into being by the action of no higher authority than the selectmen or the people of the locality. In few, if any, cases is the district made an administrative division of the town. Dissolution usually depends merely on the action of the electors of the corporation. At no stage in its career is any return made

[106] Valley Falls, A. & R. 1877, p. 31; River Point, A. & R. 1888, p. 31, 1904, c. 1202.
[107] Central Falls, A. & R. 1882, p. 255.
[108] Maryville, A. & R. 1896, c. 437; River Point, A. & R. 1904, c. 1202.
[109] East Greenwich, A. & R. 1889, p. 91; Watch Hill, A. & R. 1901, c. 911.
[110] Watch Hill, A. & R. 1901, c. 911.
[111] Ibid.
[112] Harrisville, A. & R. 1906, c. 1416.
[113] Harris, A. & R. Washington, A. & R. 1911, c. 741.
[114] Harris, A. & R.
[115] In the town of Warwick, made up of one urban center, several manufacturing villages and surburban residence communities as well as a rural area, government by town meeting has proved a failure. But among the solutions of the difficulty now proposed and under consideration, one which would give some form of village incorporation to the larger centers of population finds few advocates.

to a state official, nor does any central authority make inspection of its acts or financial condition, and the statistical departments of the several states are unable to give even a complete list of these areas now in existence.

The work which the Massachusetts Bureau of Statistics is now authorized to do in connection with the financial statistics of cities and towns will probably soon be extended to include the lesser taxing areas. From this source and from the Vermont law requiring financial reports to the secretary of state from cities, towns, villages, and school and fire districts[116] a certain amount of information will undoubtedly soon be available, but at the present time the only sources of information concerning the constitution and functions of villages and the other lesser areas are the general statutes and the special acts relating to them. Concerning their actual operation there is nothing whatever to be found.

[116] P. 6 supra. Laws of Vermont 1910, No. 11.

THE PARLIAMENT ACT OF 1911
II

ALFRED L. P. DENNIS
University of Wisconsin

A previous article[1] attempted a summary of the contents of the Parliament Act of 1911 and a mention of its immediate ancestry. There followed notice of some historical alleviatory suggestions regarding the composition of the House of Lords and an analysis both of the actual provisions of the Act and of proposals alternative to them with respect to the powers of the Upper House in the matter of "money bills."

This second article, continuing the method of the first, includes at the outset the question of the powers of the House of Lords as to "general legislation," i. e. public bills other than money bills. There follows reference to historical ancestry in these matters. Thus the consideration of the means by which the Act became law, that potential resort to the use of the royal prerogative by the temporary executive, may clear the way for speculation as to the significance of the Parliament Act as a whole.

Briefly the Act provides for a final reduction of the powers of the House of Lords as to general legislation to a suspensive veto operative against House of Commons measures only in two successive sessions; after a lapse of two years after the first introduction of the measure in the Lower House and on its third passage there the bill can become law on the royal assent being given, the Lords notwithstanding.[2]

As previously we must turn now to the Conservative alternatives. They are scattered in House of Lords resolutions of 1910, in Lord Balfour of Burleigh's Referendum Bill of March,

[1] *American Political Science Review*, VI. pp. 194–215.
[2] For a fuller statement cf. *Ibid*, pp. 195–196.

1911, and in amendments to the Parliament Bill proposed in the House of Lords during July, 1911. Lord Rosebery in March, 1910, had spoken of a "strong and efficient" Second Chamber; and Lord Lansdowne in his resolutions of November, 1910, had distinctly built his proposals as to the powers of the House of Lords in general legislation on the foundation of a reconstituted Upper House whose influence would thus inevitably be greater morally whatever might be determined regarding its statutory powers. With this in mind we can examine Lord Lansdowne's resolutions, which were adopted by the Lords and by the Conservative party just before the general election of December, 1910.[3]

Lord Lansdowne then proposed that, if a difference between Lords and Commons regarding the passage of a bill continued "in two successive Sessions, and with an interval of not less than one year, and such difference cannot be adjusted by any other means, it shall be settled in a Joint Sitting composed of members of the two Houses." From this method Lord Lansdowne excepted a difference relating "to a matter which is of great gravity, and has not been adequately submitted for the judgment of the people" in order to have recourse not to a joint sitting but to "the electors by Referendum."[4] In this fashion in an historic legislative body the Conservative party advocated for the complicated modern State resort to a device which, however ancient, spelled first of all an indictment of the historical result of representative government in England.

But Lord Lansdowne continued to a further case of a House of Commons bill, for which had been claimed the special privileges of a "money bill." Such a bill if the joint committee of both Houses should decide that it was neither wholly nor in part "purely financial in character" should "be dealt with forthwith in a joint Sitting of the two Houses."[5] Since major measures are usually introduced by the government of the day first in the House of Commons the verdict as to the need of a joint

[3] On the political situation cf. *Ibid.* V. pp. 525 et seq. and VI. p. 197.
[4] *6 House of Lords Debates*, 5 series, c. 838.
[5] *Ibid.*

sitting, certainly the decision as to recourse to a referendum would in almost any conceivable case rest with the Upper House. The debate ensuing on Lord Lansdowne's proposals cleared some points; but the question as a whole went to the electorate in December, 1910, in a rather vague form, entangled with economic and Irish matters. Though the electorate probably did not then clearly appreciate the significance of the Conservative program the net result of Lord Lansdowne's proposals, which were the best which he could then urge through the House of Lords, would probably have been to strengthen the position of the Upper House and to exert on the executive either actually or potentially an even larger influence than heretofore. So much for the official Conservative suggestion as to the referendum and joint sitting in November, 1910.

With the opening of Parliament after the election Lord Balfour of Burleigh made an independent if somewhat curious suggestion in his Reference to the People Bill of March, 2, 1911.[6] On March 29 after three days of discussion the debate was adjourned *sine die*.[7] The principle of the referendum which he then advocated was embodied later by Lord Lansdowne in an amendment to the Parliament Bill; but the application of the principle as laid down by Lord Balfour remained as Lord Morley later said "in a state of very suspended animation if, animation is the right word."[8]

We pass therefore to the further development in the House of Lords of the official opposition amendments to the Parliament Bill. These turned largely on the exclusion of certain sorts of legislation from the operation of the Bill. On July 3, the extension of Parliament beyond five years was barred from the facilities proposed by the Bill.[9] But the significant amendment was Lord Lansdowne's on July 4,[10] requiring a referendum

[6] *H. L. Bills*, 1911. No. 26. Cf. 7 *H. L. Deb.* 5s. cc. 253 *et seq.*

[7] *Ibid.* c. 760.

[8] 9 *Ibid.* c. 415 (July 13) Unfortunately lack of space prevents at this time any explanation or discussion of the Reference to the People Bill.

[9] *Ibid.* cc. 6, 12. On Lord Avebury's motion accepted by the government and the House of Commons on August 8 (29 *H. C. Deb.* 5s. c. 1094).

[10] 9 *H. L. Deb.* 5s. c. 100.

"in a manner to be hereafter provided" for any bill "(a) which affects the existence of the Crown or the Protestant succession thereto; or (b) which establishes a National Parliament or Assembly or a National Council in Ireland, Scotland, Wales or England with legislative powers therein; or (c) which has been referred to the Joint Committee, and which in their opinion raises an issue of great gravity upon which the judgment of the country has not been sufficiently ascertained." The Joint Committee was to determine whether any bill came within the scope of these provisions. This amendment abandoned the earlier notions of a joint sitting of both Houses, preserved the referendum, and struck at the root of the alleged intention of the government to carry an Irish Home Rule measure by means of the facilities provided by the bill without recourse to another general election on the issue of Home Rule. In fact the amendment denied that Irish Home Rule as a serious possibility had been before the electorate in December 1910, and it asserted in general the doctrine of the necessity of a "special mandate" by the electorate for certain classes of bills. Here therefore was a mixture of party politics, constitutional law, and political science. It was carried by a vote of 203 to 46.[11]

We find this program capped by an amendment of July 6 to provide for this Joint Committee, to which Lord Cromer as stated in the previous article, had already referred doubtful money bills. After all the referendum might be in some respects only a specialized general election; the subjects submitted to its verdict might be similar in importance to many which had previously been the cause of dissolutions and general elections; something might be said regarding the danger of "tacking" in money bills; but there remained the new tribunal which could act with novel and enormous power. Here was the possible refuge of those who had been forced from earlier and historic claims of rejection, revision and delay. To be sure it would be only a temporary refuge. But from that refuge the executive could be threatened, the power of the House of Commons could be assailed and the ancient system of a responsible cabinet

[11] *H. L. Deb.* 5s. c. 276.

dependent on a more or less representative legislature could receive shock after shock. An earthquake need not last long to do damage; and in the Joint Committee lay the power to tilt if only a little and for a short time the strata on which modern British government had hitherto chiefly rested.

This addition to the political system had been indicated by Lord Lansdowne; it was now formulated by Lord Cromer and Lord St. Aldwyn.[12] How was it to be constituted? For the House of Lords there were the Lord Chancellor, who was a member of the Cabinet, the Chairman of Committees, usually chosen for life tenure of that office and consequently usually a member of the dominant party in the Upper House, and a Lord of Appeal chosen by the other Law Lords. For the House of Commons there were also three, viz:—a member selected by the Speaker and presumably of the party in opposition, the Chairman of Ways and Means, originally a party selection at the first session of each Parliament, and the Speaker who might have a second casting vote as chairman of the Joint Committee. These six strong men certainly could command attention. But on analysis if the strain of party allegiance became too great for impartial judgment by most of them the issue would probably finally lie with the Lord of Appeal and the Speaker. Here the casting vote of the Speaker could place the decision as to money bills where the Parliament Bill had already placed it in more direct fashion. Other questions, however, would come before this committee. They were to determine not only the content of a bill but the gravity of an issue, to look away from Westminster and judge the heart of the nation. They must analyze the issues of an election, untangle the "mandates" of the people, and appraise the verdict of the electorate. They might in a large way but suddenly become rapid mapmakers of recent political and social explorations.

Furthermore how and when were they to begin work? The Speaker might take the initiative; he must, if asked by the executive, or by the majority of either House. Thus the minority in either House could depend only on the independent action

[12] *H. L. Deb.* 5s c. 488.

of the Speaker to secure even a meeting of the Joint Committee. In other words a party in opposition and not having a majority in the House of Lords would be obliged to depend on an optional initiative on the part of the Speaker to make even an attempt to prevent enactment of legislation on a subject of gravity which might not have been previously clearly before the electorate. Frankly this would tend to make the Speaker an arbiter as to party claims and policies. On the other hand if the opposition had a majority in the House of Lords the Joint Committee might be called into action regarding any important bill which had passed the Lower House. Thus under these circumstances the burden of responsibility, the power of decision might be forced on the Committee, very possibly on the Speaker, at almost any time and as often as an opposition majority in the Lords might think it necessary or prudent. The upshot might well be a most serious attack on the non-partisan prerogatives of the Speaker's office, extending in scope and opportunity much beyond anything that had hitherto been suggested.

Throughout these months of 1911 the Parliament Bill was subjected to a searching analysis as a revolutionary program. But it is doubtful if the public considered sufficiently the bearing and scope of the alternative plan and the opposition amendments. We must now hurry to a summary of them. Both as to the composition and powers of the Second Chamber they proposed great changes, in some respects fully as great as those proposed by the Parliament Bill. They aimed at the increase in the moral authority and consequently in the ultimate power of the Upper House; they involved potentially, if not necessarily, by novel and untried schemes of political adjustment, a return under new terms to conditions and relationships which had been definitely though gradually eliminated from the British constitution. In other words the Tory party aimed to restore the Whig oligarchy under new circumstances, to check tendencies which had resulted from the Reform Bill of 1832. That act had shuffled the cards; the second and third Reform Bills of 1867 and 1884 had added new rules and new cards. In 1911

the Conservative and Unionist party asked for an eighteenth century edition of Hoyle.

Now we can better judge the provisions of the Parliament Bill as to non-financial public bills. We have previously seen how these developed through the resolutions of 1910 from the Campbell-Bannerman resolutions of 1907. What of their remoter ancestry? The records of discussion, of fruitless suggestion by ancient radicals and of more recent party gatherings cannot detain us. There is need to note only three clear points. Mr. Spalding in 1894 proposed[13] that the House of Lords might reject a bill twice only and but once if followed by a dissolution of Parliament. A bill returned to the Lords the third time might be amended; but, if the Commons disagreed with the amendment, the Lords must give way. It is true that Mr. Spalding did not see his way to dealing with "wrecking amendments" by the Lords on the first and second appearance of the bill and that he wished to see a reform of composition as well. His scheme did not have the flexibility of the Parliament Bill nor was it as fully worked out. But a much greater man than Mr. Spalding had formulated the same idea in 1884. For John Bright then advocated the following plan; the Lords might amend a Commons bill; if the Commons disagreed with those amendments the Lords might then reject the bill; but in a third session, if practically the same bill was sent up to the Lords, then the Lords should be bound to accept the bill.[14]

[13] Spalding, T. A.: *The House of Lords*, (London, 1894) p. 231.

[14] At Bingley Hall meeting, Birmingham, August 4 (*Times*, August 5, 1884). He believed that by the operation of the suspensive veto the attendance of the Lords would naturally be reduced to about 100, a number corresponding to the number of peers efficient in public service. He therefore opposed reform of composition; and supported his plan as to powers as "the most complete remedy with the least amount of disturbance." The *Times* leader of August 5, commented on the proposal as "a political event of no ordinary significance" for the "question is rapidly coming within the range of practical politics; and Mr. Bright's suggestions for the reform of the House of Lords are not very subversive if the question is once regarded as an open one;" nevertheless in view of existing circumstances "we are compelled to regard his scheme rather as interesting in theory than as feasible in practice." A week later another aspect of the matter was touched by Sir Wilfrid Lawson who declared that a "hereditary legislative chamber is a legislative anomaly, a political deformity, and a public enemy." (*Times*, August 11.)

Much earlier James Mill in his article "Aristocracy" published in 1836,[15] proposed the fundamental principal of the Parliament Bill of 1911. "Let it be enacted," he said, "that if a bill, which has been passed by the House of Commons, and thrown out by the House of Lords, is renewed in the House of Commons in the next session of Parliament, and passed, but again thrown out by the House of Lords, it shall, if passed a third time in the House of Commons, be law without being sent again to the Lords."[16] Roebuck in the year before in his "Pamphlets for the People" had led an untempered attack upon the peers and had given notice that in the coming session of the House of Commons he would "move for leave to bring in a bill to take away the *veto* now possessed by the House of Lords" and to substitute a "suspensive power," with the proviso that "if bills which have been passed by the House of Commons, be rejected by the House of Lords, and again during the same session be passed by the Commons, such bills shall become law, on the Royal assent being thereunto given."[17] This of course goes much beyond later plans; but Mr. Roebuck lived to die a Privy Councillor. His virgin scheme had been soon buried.

The germination of methods in active minds does not touch as yet the larger question of the development of profound conviction, slowly matured, till it appears in the definition of a wide policy. Such a process is close to the history of political thought in more than one generation. Thus we find Mr. Gladstone in August 1884,[18] denouncing "the doctrine that it is the function of the House of Lords to point out the time of dissolution, and to determine when the country is to be referred to." Such a doctrine "has no place whatever in our history or our

[15] *London Review*, Jan. 1836. Later republished in Roebuck: *Pamphlets for the People*, II.

[16] Bain: *James Mill*, p. 401. Cf. also Bowring, *Works of Bentham* IV, pp. 420 *et seq.*

[17] Roebuck: *The Conduct of the Ministers*, London 1835, p. 11. This was included in volume II of *Pamphlets for the People;* Cf. also in the same series, Roebuck: *Of What Use is the House of Lords* (1835); which was reviewed in *Westminster Review* (Jan. 1836) XXIV, pp. 24–41, and H. S. Chapman in a review of motions regarding the Lords included in Roebuck: *Parties in the House of Commons* (1835).

[18] Midlothian speech, August 30, reported in *Times*, Sept. 1, 1884.

constitution. To tamper with that doctrine, to give it the smallest countenance, to admit one jot or tittle of it, would in my opinion, be treason to British liberty." Mr. Gladstone, though often an entangled and equivocal John the Baptist, thus clearly denounced in 1884 just what the Conservative party did in November, 1909, by the Lords' reservation of the Budget to the verdict of the electorate.

But in 1884 Mr. Gladstone was conservative and moderate in his immediate attitude regarding both powers and composition of the Upper House. He then owned that he looked "with reluctance to entering upon questions of organic change in the constitution of this country, unless and until the moment comes when I can no longer deny their necessity."[19] To Mr. Gladstone that moment never came. Unfortunately one issue—that of Ireland—shortly befogged the realities of economic and constitutional development. In the last analysis the House of Lords' question was to be an economic question; and Mr. Gladstone, a recruit to the ruling class, remained to the end benevolently indifferent to social questions. But ten years later, in 1894, he agreed[20] "to the sorrowful declaration that the differences, not of a temporary or casual nature merely, but differences of conviction, differences of prepossession, and differences of fundamental tendency between the House of Lords and the House of Commons, appear to have reached a development in the present year such as to create a state of things of which we are compelled to say that in our judgment, it cannot continue." The controversy between the two Houses "when once raised must go forward to an issue" since "the epoch, the age of reserve and circumspection" in the use by the House of Lords "of enormous privileges" may have "gone by." And on this issue "it is the authority of the nation which must in the last resort decide." That was the gist of Mr. Gladstone's last speech in the House of Commons after sixty-two years of active political life.

[19] *Times*, Sept. 1, 1884. Cf. Morley: *Gladstone*, III, p. 130 for important correspondence with the Queen.

[20] 21 *Hansard*, 4s. cc. 1150–51.

The "issue," the "moment" of which Mr. Gladstone had solemnly spoken, came in 1910. Lord Ridley in opposing the passage of the Parliament Bill had rightly said "there has been a constitutional question simmering since 1832."[21] For the Parliament Bill came into being when the political pot stopped simmering and boiled over. In no way is this clearer than in the bitter question of the fashion in which the Parliament Bill became law in August, 1911. The threat to use the royal prerogative for the creation of peers left the Lords no longer "free agents."[22] Such a power had not been exercised to carry a policy since 1713; the threat had been employed only in 1832. Its use in 1911 makes any student of English history shrink from the question. Yet few recent crises show such logic of events or such grasping if courageous use of ultimate political forces. Nothing can further emphasize the gravity of this matter or reveal the quality of the leadership which employed such weapons. On our understanding and interpretation of what is now known regarding this matter may well depend in large part our judgment regarding the immediate historical significance of the passage of the Parliament Act.

In a remarkable article published in 1899 the author complained that the House of Lords question was not in the hands of democrats but of party leaders who were not in earnest.[23] He saw in the abstract much to recommend Mr. Bright's plan for the suspensive veto, the three sessions, and two years of delay; and added that the union of a large economic issue with that of constitutional change in the hands of men who were in earnest and who would not shrink from the charge of revolution would alone be the method by which that plan of dealing with the Lords could be victorious. The late Duke of Devonshire in 1906 warned the House of Lords of the danger to them and to the Unionist party should questions regarding "the constitutional rights of this House" arise at a time of economic agitation, when they would be committed to a policy of protection or

[21] 8 *H. L. Deb.* 5s. c. 557.

[22] Lord Lansdowne's phrase on July 20.

[23] Clarke, W.: *The House of Lords* in *Contemporary Review*, LXXVI, pp. 333-346.

tariff reform.[24] The rejection of the Budget in 1909 and the ensuing campaign on the combined issues of the powers of the House of Lords and of the taxation of food established this connection. The democratic cry was supplied by the speeches of Mr. Lloyd George whose attack on the "mongrel" aristocracy[25] more than rivalled that of Mr. Joseph Chamberlain a generation ago against that "miserable minority,"[26] who "toil not neither do they spin."[27]

Thus both a real and a factious attack was made with much show of reason and much genuine conviction against what Mr. Bright had termed that "last refuge of political ignorance and passion"[28] the unreformed and unchecked House of Lords. Sir Edward Grey, a sober, careful man had said in 1909: "we realize the importance and the seriousness of the struggle. It is because we realize it that we shall go into it with our full strength, and with the help of the people of this country we will see the thing through."[29] On December 10, 1909, Mr. Asquith spoke of the matter of method, declaring that "we shall not assume office, and we shall not hold office unless we can secure the safeguards which experience shows to be necessary for the legislative utility and honor of the party of progress."[30] According to a later explanation of this turbid sentence the Prime Minister referred to the passage of a law as a safeguard. In any event he denied to the House of Commons on February 21, 1910,[31] that his statement in the previous December had ever implied a request to the King to secure "in advance some kind of guarantee for the contingent exercise of the Royal Prerogative." He added: "if the occasion should arise I

[24] 152 *Hansard*, 4s. c. 462. Cf. Holland: *Duke of Devonshire* (London, 1911) II. pp. 394 *et seq.*

[25] At Plymouth, Jan. 8, 1910 (*Times*, Jan. 10).

[26] At Denbigh, Oct. 20, 1884 (*Times*, Oct. 21).

[27] At Swansea, Feb. 1, 1883 (*Times*, Feb. 2).

[28] Rogers: *Addresses of John Bright*, p. 193.

[29] At Trowbridge, Nov. 24, 1909. *The Lord's Revolution* p. 16. (Authorized edition published by Liberal Publication Department. London, 1910.)

[30] *Three Capital Issues*, p. 10 (Authorized edition of Albert Hall Speech publ. by L. P. D. London, 1910).

[31] 14 *H. C. Deb.*, 5s. cc. 55–56.

should not hesitate to tender such advice to the Crown as in the circumstances the exigencies of the situation appear to warrant in the public interests;" but he then repudiated the notion that he might ask for a "blank authority for an indefinite exercise of the Royal Prerogative in regard to a measure which has never been submitted to or approved by the House of Commons." In the interval before April 14, 1910, the three resolutions on which the Parliament Bill was based had been "approved by the House of Commons"; and on that day the Prime Minister said:[32] "if the Lords fail to accept our policy or decline to consider it as it is formally presented to the House, we shall feel it our duty immediately to tender advice to the Crown as to the steps which will have to be taken if that policy is to receive statutory effect in this Parliament. What the precise terms of that advice will be . . . it will, of course, not be right for me to say now; but if we do not find ourselves in a position to ensure that statutory effect shall be given to that policy in this Parliament, we shall then either resign our offices or recommend the dissolution of Parliament. Let me add this, that in no case will we recommend a dissolution except under such conditions as will secure that in the new Parliament the judgment of the people as expressed at the elections will be carried into law." Mr. Balfour promptly replied that in that announcement the Prime Minister suggested "that which is nothing short of the destruction of the Constitution." The price of Irish support for the Budget is "the dignity of his office, and of all the great traditions which he, of all men, ought to uphold."[33]

The events of the next seven months are in our minds as we come to the next stage, to a time when a six-months' King received from his Cabinet in connection with conferences which took place between him and the Prime Minister and Lord Crewe, in behalf of their colleagues, a letter dated November 15, 1910. The Cabinet in advising the King to dissolve Parliament stated: "His Majesty's Ministers cannot take the responsibility of advising a dissolution unless they may understand that, in the

[32] 16 *H. C. Deb.*, 5s. c. 1548.
[33] *Ibid.* c. 1551.

event of the policy of the Government being approved by an adequate majority in the new House of Commons, His Majesty will be ready to exercise his constitutional power, which may involve the Prerogative of creating Peers if needed to secure that effect shall be given to the decision of the country. . . . His Majesty will doubtless agree it would be inadvisable, in the interests of the State, that any communication of the intentions of the Crown should be made public unless and until the actual occasion should arise."[34] This letter was finally read in the House of Commons on August 7, 1911, and Mr. Asquith then said that after careful discussion the King on Nov. 16, 1910, had "felt he had no alternative but to assent to the advice of the Cabinet."[35] On November 18, the dissolution was announced and, in the course of debate, Mr. Asquith emphasized his determination not to announce anything regarding advice already given or which might be given to the King, "who stands aloof from all our political and electoral conflicts."[36]

Again eight months go by. An election is fought and the King is crowned. On July 20, 1911, when the Parliament Bill, as amended by Lord Lansdowne and others, passed the House of Lords Mr. Asquith wrote[37] to Mr. Balfour and to Lord Lansdowne that "should the necessity arise, the government will advise the King to exercise his Prerogative to secure the passing into law of the Bill in substantially the same form in which it

[34] 29 *H. C. Deb.* 5s. cc. 810–11. Unfortunately that night the official reporter misquoted the letter of the Cabinet as read by Mr. Asquith; and Sir William Anson in the last edition of *Law and Custom*, 4th ed., reissue revised, October, 1911. I. p. 288b, follows that mistake, making it appear that the Cabinet had referred to the possible creation of peers in order that "effect shall be given to the *desire of the Government*" instead of to the *"decision of the country."* The speech and letter had been correctly reported in the *Times* of Aug. 8, and the matter also came up on a question by Mr. Butcher on Aug. 9 (29 *H. C. Deb.* 5s. c. 1147) when the correction was noted and made in the official report. In view of this it may be desirable to reconsider implications built on this misquotation in Anson, pp. 289–90.

[35] 29 *H. C. Deb.* 5s. c. 811. Hints have also been given of a conversation between the late King and Mr. Asquith directly after the rejection of the Budget in 1909 in which the Prime Minister said: "It is impossible for this state of things to go on unless we have redress." Lord Haldane at Aberdeen, Oct. 9, 1911 (*Westminster Gazette*, Oct. 10).

[36] 20 *H. C. Deb.* 5s. c. 135.

[37] *Times*, July 22, 1911.

left the House of Commons, and his Majesty has been pleased to signify that he will consider it his duty to act on that advice." This left the decision as to whether peers were to be created to the struggling leaders of the opposition. We have no concern at present with the numerous complications between "ditchers" and "hedgers," nor with the scene of disorder in the House of Commons on July 24 when a queer combination of Tory enthusiasts gave vent to a vituperative *crescendo* against the Prime Minister. The next few days were critical. But on August 7 Mr. Asquith made his explanation that he had never asked for a "pledge" from the King, that no calculation of an "adequate" majority had been agreed on and no definition of a "cast-iron legislative scheme to be rammed through Parliament" had been presented as a preliminary to securing the royal support.[38] Here the assumption must be that at least one record is lacking, viz:—a letter or a memorandum of a conversation which would make evident the renewal in July, 1911, of the understanding between the King and the Cabinet in the previous November.

That may be partially supplied by a mention of the paper from which Lord Morley apparently read for a moment in the House of Lords on August 10. In response to very direct inquiries as to the extent to which the Cabinet was empowered with regard to the creation of peers he spoke, paused, and then read: "If the Bill should be defeated tonight his Majesty would assent to a creation of Peers sufficient in number to guard against any possible combination of the different parties in opposition by which the Parliament Bill might again be exposed a second time to defeat."[39] Then the bill passed. And this is essentially all that is now open in official documents.

There follows comment as compact as possible, regarding this solemn transaction. This extreme and earnest employment of the potential prerogative of the creation of peers prob-

[38] 29 *H. C. Deb.* 5s. c. 812.
[39] 9 *H. C. Deb.* 5s. c. 999.

ably will prevent future recourse to it.[40] The Parliament Act is itself a slower substitute for this prerogative. But in the prerogative regarding the dissolution of Parliament a doubtful precedent was set. In November, 1910, we have a dissolution and a recurrent election to demonstrate the validity of the judgment of the executive; but only Lord Palmerston has hitherto ventured on such an experiment.[41] We have furthermore efficient use of the resolution as distinguished from the bill as a test of legislative opinion or for submission to the electorate. In this Mr. Asquith followed the precedent set by Mr. Gladstone in 1868–69 regarding the disestablishment of the Irish Church. Here also a conflict threatened between the two Houses of Parliament and here the royal prerogative of advisory intervention, through the Archbishop of Canterbury, helped to prevent that conflict.[42] The Lords gave way. Where no such conflict was directly involved the late Duke of Devonshire also pointed to the precedent set by Mr. Disraeli's resolutions in 1858 regarding a new government for India. In 1903 the Duke had urged on Mr. Balfour the use of the resolution as a means of "helping the country to make up its mind on a [fiscal] question on which it is almost hopelessly perplexed."[43]

Still another point. In July 1911, as in October, 1909, the official leaders of the opposition saw the King; but in November, 1910, when the contingent arrangement was settled they were not sent for. The weight of Lord Rosebery's opinion on constitutional precedent added to a long record also justifies this

[40] Cf. however, Anson: *op. cit.* I. p. 290 "It cannot be said that the passing of the Parliament Act has put an end to the possibility of a further employment of this prerogative." Prof. Dicey apparently takes an opposite view. (*Times*, Aug. 21, 1911.)

[41] Cf. the circumstances connected with the dissolution and general election of 1857. Prof. Dicey (*Times*, Sept. 2, 1911) believes that the Parliament Act places a "formidable obstacle" in the way of a minister who though popular in the country is unpopular in the House of Commons. He will not be able to dissolve Parliament as often or as promptly. But if this is so does it not imply that the Parliament Act and the payment of a salary to the members of the House of Commons do not strengthen the authority of the Cabinet?

[42] Cf. the correspondence in Davidson and Benham: *Tait*, II. ch. XIX.

[43] Holland: *Devonshire*, II. p. 327.

aspect.[44] In each case, as in the unfortunate record of 1910, political forces were compelled to successive decisions some of which had only a moderate weight in their favor. The sequence is clear; the result is forever controversial;[45] and death and personality played their part. It remains for the future to determine the slow social effect of this tremendous and rapid demonstration of power. Nevertheless the accretion of power to the Cabinet by these events may well give pause. They have handled sacred and guarded weapons in the name of the people; in doing so they became for the moment politically omnipotent. Prerogative and referendum were alternative methods and the radical government chose the royal, the historical method, for the prerogative is "a part of the rights of the people."[45a]

If we agree that a Liberal government ought not to have an approximately even chance with a Conservative government to pass its measures into law, if we believe that the legislative supremacy of the House of Commons is tolerable or safe only when a Conservative Cabinet is in charge, then the King became a weak instrument of base politicians. But, unless we stand on this foundation, according to the rules of the game, under the present English legal and political system, by the logic of events; and in the language of the documents George V. was right. If he was right the government was entitled to give him the advice on which he reluctantly acted. In any case on the authority of some history, as well as of Mr. Disraeli, "it is a delusion to believe that revolutions are ever effected by a nation. It is a faction and generally a small one, that overthrows a dynasty

[44] 9 *H. L. Deb.* 5s. c. 1003. The circumstances of 1834 (Sanders: *Melbourne*, pp. 219 *et seq.*) and of 1839 when the youth and female prejudices of the Queen gave an unfortunate twist to this question ought not to serve as precedents (*Letters of Queen Victoria*, I. pp. 207 *et seq.*). Unfortunately Sidney Lee's biographical article on Edward VII in the supplement to the *Dictionary of National Biography* was not available for this paper.

[45] Unfortunately lack of space prevents an analysis of the opposition arguments. The speeches of Mr. Balfour and of Mr. F. E. Smith in the Commons on August 7, and in the House of Lords on August 10, of Lord Lansdowne and Lord Selbourne are among the best. Lord Halsbury is interesting; Lord Willoughby de Broke amusing.

[45a] Pitt, *Speeches*, I. p. 138. Cf. the important article by J. H. Morgan, The Creation of Peers, in *Westminster Gazette*, July 17, 1911.

or remodels a constitution."[46] Mr. Bagehot in June, 1872, said "if the House of Peers ever goes, it will go in a storm, and the storm will not leave all else as it is."[47] There may have been a ground swell in August, 1911, but we can now turn to some of the more general as well as remoter aspects of the Parliament Act. Here, however, is only brief speculation.

As we have seen the way has opened for more rapid and probable fulfillment of plans supported by a majority in the House of Commons, even though a hostile majority exist in the House of Lords. There is no minimum fixed for an effective majority in the Lower House, no test of its character or origin; men from Edinburgh, Carnarvon and Dublin count despite their origin. The representative of the Orkneys may balance the member for Oxford University. The historic English tests of competency and variety of interests have in large part given way, and if manhood or universal suffrage is bestowed the electorate will receive further extension. In the meantime all parties recognize the absurdities and injustice of the present system of distribution of representatives. Mere "count of heads" carried on in squeezed, bloated, or twisted compartments gives a modern majority.

Under the Parliament Act such a majority, perhaps one from the "Celtic fringe," might, if persistent, carry legislation in defiance of great historic interests.[48] Thus the cohesive power of a coalition based on temporary combination might be effective for such purposes till the disruptive forces of success gave time and opportunity for such a majority to consider on how many other questions they mutually disagreed. The social forces at work are not likely to leave the two historic parties undisturbed in their traditional duel. Impolite interruptions

[46] Monypenny: *Disraeli*, I. p. 324. Disraeli's opinions on the House of Lords, 1834-36 are worth reading (pp. 226, 308–11, 324–26); and in this connection both the differences and the analogies between the periods, 1832–36 and 1906–10 are interesting.

[47] Bagehot: *The English Constitution*, p. 27. (Introduction to second edition. New York, revised edition, 1901.)

[48] This was the possible situation which Mr. Chamberlain indicated as reason for the maintenance of the powers of the House of Lords in 1894. Speech at Liverpool, Sept. 5. (*Times*, Sept. 6.)

in that social function have already taken place. The Parliament Act, however is not responsible for these conditions; but its existence today is in part due to them. It must work under them and because of them will at the very outset receive its sharpest moral and political tests. Nevertheless the law may be the machinery by which such conditions will be more rapidly remedied. The chance, the probability, still remains that its output will include legislation that might otherwise take a much longer time to pass.

Another aspect of the Act is with regard to debate and the position of both minority and majority in the House of Commons. The situation is obscure.[49] The congestion of business, the drastic operation of closure and guillotine and more recently the uncertain qualities of the "kangeroo" method of selection by the Chairman of the House of Commons in Committee of special amendments for discussion, and the consequent exclusion of others, all leave decreasing opportunities for the minority and tend also to group the majority into a muttering if disciplined gang. The effect of this on government by discussion is obvious and bad. It is unfair to expect from the Parliament Act an efficient remedy for these conditions. The question is rather will they become worse because of the added ultimate efficacy of a majority in the House of Commons? It is clear that as the legislative functions of the House of Lords tend to decrease in importance the debates in the House of Commons on controversial bills ought to increase in importance. But two forces will be at work.

This demand for a free and signficant debate somewhere may be balanced by the pressure of a confident and well-drilled majority, who are impatient of "mere talk." Unless the government of the day is magnanimous and patient on this subject existing forces hostile to representative government will be strengthened. In this connection the increased relative importance of membership in the House of Commons may have a bearing. An opinion and a vote in that House, particularly as to constitutional matters or as to some large social program

[49] Cf. Anson: *Law and Custom of the Constitution, Parliament.* I. p. 267.

ought to count more directly and completely than heretofore. In that respect the elector on the winning side may be surer of getting his will. The life of a Parliament is shortened and issues may become clearer and more insistent. Under these circumstances and, in view of the social transformation of England, with fewer opportunities to escape responsibility whether for omission or commission the majority as well as the minority will be subject to a larger degree than heretofore to the pressure of forces outside of Parliament. To that extent the member of the House of Commons may be in a better position to extort from the government a freer chance to explain his own views and to record his proposals. Another possible result is the completion of a large plan for constitutional reform which may reduce congestion, give less chance of fine party adjustment and combination, and in that way give greater importance to debate and value to decision.

Over all these questions there rests the shadow of the Cabinet, to which Sir William Anson rightly says "legislative sovereignty may be said to have passed."[50] He also refers to the effect of the payment of a salary to the members of the House of Commons as an additional reason why men will shrink from independence and the prospect of a dissolution. The power of the Cabinet may thereby be increased. On this matter the Parliament Act does not apparently give much relief. In other countries as well grave forces have tended to strengthen the administrative few, to extend the prerogative of the executive, while the busy crowd have gone to their work. Even before an impatient people the leadership of a small group or of an individual may temporarily assume greater importance. The control of the Cabinet over the party therefore continues a central fact. The influence of the Act may make the leaders more insistent on the obligation of the member to support a measure that will endure a long ordeal of travel back and forth from House to House. If we compare the debates and the

[50] *Op. cit.* I. p. 12. The recent decisions of the Court of Appeal in Dyson v. the Att. Gen. and in Burghes v. the Att. Gen. (reported in the *Times*, Nov. 18, 1911) as to the validity of Forms IV and VII under the Finance Act, 1910, reveal the tendency of administrative departments to go beyond even their statutory powers.

attitude of members at the time of the passage of the Budget through the House of Commons in the summer and autumn of 1909 and the final conditions when the same Budget, after its rejection by the Lords and after the general election of 1910, was perfunctorily passed for a second time in April, 1910, we can surmise the mechanical and deadening influences of such repeated experiences on parties in the Lower House. Nevertheless the politician will now be increasingly tender as to the size of the majority for a bill on its successive appearances in the House of Commons. It is a matter so obvious to the man outside.

The Cabinet will also be keen to secure an early start for major measures which are likely to face an endurance test on the parliamentary run. This may crowd even more than now the party program in the first sessions. On the other hand as the length of a Parliament will probably not be more than four years[51] the temptation for a Liberal Cabinet will be to provide late in the life of a Parliament a spectacular measure which the Lords may be expected to maltreat. Thus the radical elements in spite of the Parliament Act may not be wholly bereft of a last edition of an ancient campaign cry against the Lords. The Cabinet and party whips may not ignore the higher temporary premium on exaggerated claims of social panaceas as they face a closer balance of forces, while the increasing excitement of English life will also tend to produce an increasing uncertainty with regard to party prospects. The opposition will also tend increasingly to become the party of popular agitation; and all parties now have to endure the almost incalculable forces of an inexpert and shouting, shuffling electorate, as they try to outbid each other in the democratic market.

[51] Professor Dicey holds another view (*Times*, Sept. 2, 1911). In this connection we may note that he believes that the prerogative of dissolution will be practically destroyed. Whether this will be so or not an amendment to the Parliament Act reducing the maximum life of a Parliament to three years might meet many of the objections of the opposition; the government might thus find a partial substitute for the referendum; and the influence on the Cabinet might be important. Mr. Disraeli once favored this restoration of triennial Parliaments which the Whigs threw overboard in the squall of 1715. (Monypenny: *Disraeli*, I. p. 283). Undoubtedly there are many serious objections to it; but none so serious as have been brought against many of the provisions of the Act and of the opposition program.

What relation, therefore, has the Parliament Act to democracy? Both parties used the usual language on this point. But as we have seen Lord Lansdowne's plans reverted to the eighteenth century by the paradoxical recommendation of the referendum. The Unionist proposals were made by men ready to "close up their ranks in order to save Society" in a coming desperate struggle.[52] The Parliament Act while it emasculates the horde of "backwoodsmen" in the House of Lords and gives rough equality to both political parties has probably placed the chief power more definitely in the hands of the twentieth century party machine as controlled by party leaders. Potentially democratic it is first of all the "apotheosis of party."[53] Thus in one sense the public had a Hobson's choice of "revolutions." Though the Parliament Act is only half a "revolution," in as much as in years of Conservative government the country had already become familiar with most of its possibilities.

Throughout this controversy the question was entangled with that of Irish Home Rule. From an early stage and from hostile as well as friendly sources the country learned that the House of Lords question involved other large matters; and the Irish question stands in the front rank. We may discount some of the manoeuvers of the official opposition; but they were right in placing the Irish question before the electorate. Thanks to their efforts as well as to the statements of their antagonists the possibility if not the probability of Irish Home Rule was before the country in December, 1910.[54] If the electorate were not in favor of Irish Home Rule then, a majority regarded it at least with sufficient indifference to be willing to settle the House of Lords question on lines which clearly predicated further legislation as to Ireland, as to Welsh disestab-

[52] Cf. the late Lord Salisbury's speech at Edingburgh, Oct. 30, 1894, and comment in *Blackwoods*, CLVI, pp. 889–90.

[53] Cf. Professor Dicey in the *Times*, Oct. 3, 1911.

[54] This has been denied. The posters issued by Unionist headquarters on Mr. John Redmond as the "dollar dictator" justify the above statement; and an abundance of further evidence is open to anyone who reads newspapers. Cf. the House of Commons debate reported in the *Times*, Feb. 20 and 21, 1912.

lishment and as to electoral reform.[55] To suppose that each important measure proposed by a government must be submitted to the public verdict in an election is to declare the inefficacy of representative government and to denounce the course of modern legislative history. Certainly neither party could emerge with credit unless within a comparatively short time a readjustment of outstanding constitutional problems were gained. In 1895 [56] the large and legal mind of a present Lord Justice of England had noted that the solution of the Irish question might clear the way to further and necessary constitutional development. By a turn of politics the situation was in part reversed; an old question travelled to a new solution; and the partial settlement of the House of Lords question opened a shorter way to the Irish question.

This is only one stage of constitutional history. The "concentration" on the powers must lead to another "concentration" on the composition of the second chamber.[57] In this separation the government in 1910 followed historical precedent and their own policy announced in 1907;[58] and the reconstitution of the second chamber on a "popular basis" is a difficult matter. Certainly the student would have wished that the question might have been taken up in 1911; but the student is not in politics. He can hope that when the time comes for comprehensive settlement the new upper house will not be established entirely on the lines proposed by Lord Lansdowne, that too great a break with the past may be avoided, and that in the success and wisdom to be shown in the new plan further justifi-

[55] Cf. Mr. Asquith at Hull, Nov. 25, 1910, *Lords' Reform of the House of Lords*, pp. 10, 12 (authorized edition publ. by L. P. D. London, 1910).

[56] Moulton, J. F.: *The Lords in Contemporary Rev. LXVII*, pp. 153–67 and *The Commons* in *Ibid*, pp. 305–16.

[57] The Liberal party "has concentrated its attention entirely upon the question of the powers of the House of Lords. On our side (Conservative) it would, perhaps, not be incorrect to say that we have concentrated out attention, if not entirely, mainly at any rate upon the other branch of the subject—I mean the composition of this House. We in this House feel strongly that it is impossible to deal adequately with the question of the powers of the House of Lords until we know what sort of a House of Lords it is that we are talking about." (Lord Lansdowne on Nov. 16, 1910. 6 *H. L. Deb.* 5s. c. 686.)

[58] 174 *Hansard*, 4s. cc. 43–44.

cation of its delay may be found. Colonial and foreign experience may not be directly useful. But a great result would be gained if some means might be found in the new upper house or elsewhere for securing to England the educational value of colonial opinion and colonial service. This House of Lords question is not only a domestic matter. It is an imperial and an American interest that constitutional difficulties in England, recognized by both Unionists and Liberals, should be cured.[59] Thus disruptive and hostile tendencies may be checked. Even if by way of anti-climax to an English reader, a possible result is that the colonist may add to his present love for the mother country a greater respect for her political ability. To America England has already become objectively valuable as an experimental laboratory. In any case an adjustment of the House of Lords question also propounds in more emphatic form the House of Commons and the Cabinet Question. In each economic problems are linked with constitutional tradition and party necessity.

[59] Cf. Mr. Winston Churchill's Belfast speech (*Times*, Feb. 9, 1912). In this connection we note Mr. Gladstone's speech at Aberdeen, Sept. 27, 1871. (*Times*, Sept. 28.) and the change suggested in 1894 in Selborne: *Memorials, Personal and Political*, II, p. 394: "We may expect under Rosebery an attempt to solve both the Home Rule and Second Chamber question together by a complete *Federal Scheme* of a new constitution for all parts of the United Kingdom—England and Scotland, as well as Ireland. We know already that Asquith was for such a scheme . . ."

NOTES ON CURRENT LEGISLATION

EDITED BY HORACE E. FLACK

Intoxicating Liquors. The usual volume of legislation for the control of the liquor traffic was passed in 1911 and some new experiments were authorized in three states, Alabama, Indiana and Utah, where the volume was largest.

Three states submitted the prohibition question to the people Maine, Texas and West Virginia. The first two have already voted against prohibition and the latter will vote at the next general election. Minnesota, North Dakota, Illinois and New Hampshire prohibited sales on trains and other public conveyances. South Dakota, Utah and Alabama fixed new closing hours, the first making the hours most restricted, namely, 9. p. m. to 6 a. m. South Dakota also repealed her anti-treating law which was passed in 1909. Minnesota gave right of action to any person injured in person, property or means of support against the seller; Kansas makes a second offense in liquor selling a felony; Michigan requires druggists to file cancelled prescriptions with the prosecuting attorney of the County and keep one on file; Maine repealed the Sturgis enforcement law of 1905 which provided for a state commission to enforce the liquor law; New Hampshire requires common carriers to keep names and addresses of persons in dry territory to whom liquor is shipped; Massachusetts repealed the "bar and bottle" law thus divorcing the bar from the bottle; and California enacted a local option law.

By far the most far reaching liquor legislation of the year was that of Alabama. This state had gone for prohibition but a reaction soon set in and the new laws giving local option were enacted.

The voters of each county accept one of three propositions: First, prohibition; second, dispensary; third, license. The questions submitted are whether liquor shall be sold and if it is to be sold, how shall it be done?

If the decision is in favor of license, the city or town is provided with means of administration and enforcement through an excise commission of three members to be appointed by the governor and

subject to removal by him. The commissioners must have no connection with the liquor traffic in any way and must not receive gratuities or favors of any kind.

The whole matter of licensing liquor dealers, determining their qualifications under the law, revoking licenses and enforcing the law is in the hands of the commission. Licenses may not be granted in excess of 1 to 1000 and in Birmingham 1 to 3000 population. The law goes into careful detail in prohibiting practices deemed harmful. Two provisions are of special note; the sheriff must visit all places at regular intervals for inspection and all liquors must be analyzed by the state chemist frequently.

In case the decision of a county is in favor of a dispensary there are established public dispensaries in each city or town, the number varying according to population. The dispensaries must be within corporate limits of cities or towns.

The chief manager is the purchasing agent elected by the people of the city or town. He has general charge of the purchasing end of the business. The dispenser is another official elected by the city or town who has charge of the actual sales. The management of the business subject to the council or town board is in the hands of the purchasing agent and dispenser. The profits of the business are divided, forty-five per cent going to the county, forty-five per cent to the city or town and ten per cent to the state.

Careful restrictions are made on the conduct of saloons and dispensaries. The law is written in great detail and most of the restrictive features usual in the best laws are found in it.

Indiana also legislated at length on the liquor question. The first step was the repeal of the county option law passed in 1908 and the enactment in its place of the same law making the unit the city, township and the territory of the township apart from the cities in it.

The second act was the restriction measure which was fathered by the liquor interests. This law leaves the number of licenses to be fixed by the boards of county commissioners; makes provision for granting licenses, and hearing remonstrances by the commissioners; fixes the qualifications of licensees, prohibits brewery ownership; gives power of revocation to the boards of commissioners; enables sales and transfers of licenses to be made and gives power to the councils to fix license fees and restrict the number of saloons.

The contention was made that the intent of this law was to make licenses a vested right. This was offset by the declaration that

nothing in the act should be so construed as to affect the right of control and regulation by the state.

Utah joined the local option states by a law making the units the cities and towns and the territory of counties exclusive of its cities and towns. The provisions of the law include: a search and seizure provision, prohibition of licenses outside business districts of cities and towns; no license within five miles of a city or town voting dry; prohibition of further establishment of breweries and distilleries; counties are dry until voted wet; all elections are on a definite date every two years; no sales are to be permitted within five miles of construction camps employing 25 men; no lunch, gambling, amusement or seating accommodations in saloons; druggists prescriptions must be filed with local authorities twice a year; licenses are made liable for damages caused by intoxication; shipments must be labelled and no fictitious names used; adulteration is prevented; and all license fees go to the local unit.

JOHN A. LAPP.

Juvenile Courts. By the passage of twenty-two distinct laws, fourteen states, California, Illinois, Indiana, Iowa, Kansas, Michigan, Missouri, Montana, Nebraska, Nevada, New York, Utah, Washington and Wisconsin, amended their Juvenile Court laws during the sessions of 1911. The California law, the Montana law and the Missouri law were entirely re-written, the latter because of manifest ambiguity. Arkansas, Florida, (if we except the doubtful act of 1905,) and North Dakota passed new and comprehensive acts. Delaware passed a law pertaining to the city of Wilmington; Tennessee to Hamilton county, containing the city of Chattanooga, and to Knox county containing the city of Knoxville; and New York to the city of Buffalo.

The more notable amendments relate to the alteration, expansion and clarification of the definition of neglected, dependent and delinquent children. Montana proscribes the use of drugs and cigarettes;[1] Utah excludes crimes punishable by death or life imprisonment.[2] The age limit of children who are placed expressly under the jurisdiction of juvenile courts was appreciably raised. Original juvenile jurisdiction or concurrent jurisdiction was conferred on courts not hitherto possessing such power. Utah withdrew all juvenile court powers previously conferred on justices of the peace in precincts outside cities of the first and second classes.[2] The authority and

[1] Laws 1911, p. 320.
[2] Laws 1911, p. 77.

discretion of the courts over the disposition and commitment of juvenile delinquents to correctional institutions and hospitals was perceptibly increased. Nevada has a rather unique provision. The Governor and the Superintendent of Public Instruction are authorized, up to July 1, 1913 to make contracts with California, Oregon, Idaho or Utah for the care, maintenance and training of juvenile delinquents in the industrial or training schools of those states,[3] and $7500 was appropriated for their tuition and support.[4] Wisconsin, in common with some of the other states, has incorporated a very sensible and humanitarian provision in her law authorizing the courts, if the child be in need of medical attention, to place it for treatment in a public or private hospital.[5] Nine states made changes in the appointment, nomination, number, classification, functions, and compensation of probation and assistant probation officers. Provision was made for temporary detention of juvenile offenders and for the creation, maintenance and supervision of Detention Homes. Montana, Nevada and Washington require the erection of detention houses in counties having a certain designated population, and their supervision by a superintendent and matron.[6] Utah amended her law relating to detention homes so far as to include cities of the second class.[7] Provision was made in Montana and Nevada for the creation and maintenance of Juvenile Improvement Committees.[8] Among the interesting amendments are those providing for the punishment of contributory delinquency, the extension of judicial clemency to felonious culprits, the subsidizing of worthy poor parents, and the shielding of juvenile transgressors so far as possible from humiliating publicity. In Nevada in certain cases of persons over 18 and under 21 years of age who are accused of the commission of a felony, the judge is authorized to investigate the circumstances of the commission of the crime and determine whether the culprit be dealt with as a delinquent or otherwise.[9] In Illinois if the parents of a dependent or neglected child are proper guardians but too poor to properly care for it, the court is authorized to fix the amount necessary to enable the parents

[3] Laws 1911, p. 382.
[4] Laws p. 84.
[5] Laws 1911, p. 539.
[6] Laws 1911, Montana, p. 320; Nevada, p. 382; Washington, p. 310.
[7] Laws 1911, p. 76.
[8] Laws 1911, p. 382.
[9] Laws 1911, p. 382.

to properly care for the child and the county board is required to pay the designated sum.[10] In Missouri, in counties having a population of from 250,000–500,000, and having a juvenile court, provision is made for the expenditure of not to exceed $12,000 annually out of the county funds for the partial support of poor women whose husbands are dead or convicts when such women are the mothers of children under 14 years of age. The Juvenile Court is charged with the disbursement of the money in sums not to exceed $10 per month when there is one child and $5 for each additional child. The allowance enables the mother and children to live together and obviates the necessity of the mother working regularly away from home.[11] Washington excludes the general public from hearings, the child's record of delinquency is withheld from public inspection and when he reaches the age of twenty-one it is destroyed.[12] Montana provides for shielding the trials of juvenile delinquents as far as possible from publicity.[13]

Delaware. By an Act of April 4, 1911, a Juvenile Court was created for the City of Wilmington. The court is given sole and exclusive jurisdiction in all cases relating to delinquent, dependent or neglected male children 17 years of age or under, and female children 18 years of age or under. The judge is appointed by the Governor for a term of 4 years. Provision is made for the appointment, duties, functions, compensation or gratuitous service of probation officers; for ascertaining delinquencies and securing to the accused a speedy, impartial and non-public trial; and for remanding culprits to correctional institutions. Acts 1911, p. 709.

New York. An Act of July 14, 1911, revised the charter of the city of Buffalo by providing for the establishment of the Children's Court. The jurisdiction of this court extends to all cases involving the delinquency of persons 16 years of age and under and the concurrent jurisdiction to the contributory delinquency of adults. The court is divided into two parts, one the children's court, the other for the trial of adults. The Judge is elected for a term of 10 years, any resident elector of Buffalo being eligible, removable by the appellate division of the Supreme court, and his compensation is fixed by the common council. The Judge is required to appoint at least three probation officers, one of whom must be a woman, their compensation being

[10] Laws 1911, p. 126.
[11] Laws 1911, p. 120.
[12] Laws 1911, p. 310.
[13] Laws 1911, p. 320.

provided by the common council. The city is required to provide a detention home presided over by a superintendent. Delinquent children may be judged in need of care and protection or subjected to merited punishment. (Laws 1911, p. 1729.)

Tennessee. During the session of 1911, the Legislature of Tennessee passed two Acts, one approved March 28, creating a Juvenile Court for Hamilton county, containing the city of Chattanooga, the other approved July 3, creating a Juvenile court for Knox county, containing the city of Knoxville. The Hamilton county court is held by the Judge of the City court of Chattanooga; the juvenile judge of Knox county is elected by the qualified voters for the constitutional period. Both courts are given original and exclusive jurisdiction in the enforcement of laws regulating the conduct of dependent or delinquent children of 16 years of age and under. Probation and assistant probation officers are appointed by the judge. Disciplinary punishment is accurately prescribed. The court of Hamilton county is given jurisdiction over the contributory delinquency of adults; Knox county is required to provide separate places of detentions for white and colored offenders. (Laws 1911, p. 488 and 1569)

Arkansas, Florida and North Dakota. The juvenile court laws of Arkansas, Florida and North Dakota contain most of the provisions of the more approved state laws on this subject. Juvenile courts were established in the several counties of these states. These courts are held by the respective county judges and their jurisdiction is made to extend to all dependent, neglected or delinquent children 17 and 18 years of age and under. In Arkansas, one chief probation officer and any number of assistants at salaries not to exceed $1200 and $900 respectively, except in sparsely settled countries, are appointed by the respective county courts. In Florida, the Governor is required to appoint at least one probation officer in each county, for a term of 4 years, and as many assistants, of either sex, as the business may require, and when paid, their compensation is fixed by the county commissioners. The juvenile officers of North Dakota are appointed by the district courts, they serve without pay, may be of either sex, the number so appointed is not fixed by statute. In the disposition of delinquent or dependent children, the courts are authorized to place such juvenile offenders in their own homes, or in a reputable family under probation, remand them to training schools or other juvenile institutions, or when the health of the child is impaired, to place them

in public or private hospitals where they may receive proper medical attention.

Children under 12 and 14 years of age may not be committed to common jails or police stations, but proper places of detention and confinement must be provided. Arkansas and North Dakota created a Board of Visitation, composed of 6 reputable men and women, appointed by the juvenile judge, who serve without pay and are required to visit all child-receiving institutions at least once annually. In Arkansas, the parents of delinquent children, if financially able, are required to contribute to their support. In Florida, when the juvenile offender is less than 16 years of age, sentence may in certain cases be suspended or withheld. (Laws of 1911: Arkansas, p. 166; Florida, p. 181; North Daktoa, p. 266.)

CHARLES KETTLEBOROUGH.

Life Insurance Legislation of 1911. Laws enacted by the several states in 1911 brought the total number of statutory requirements affecting the institution of life insurance and its holders of thirty million policies up to about forty-five hundred. This figure does not include the requirements affecting domestic companies solely, with the exception of New York state. Were those to be added, the number would be much larger. Domestic laws should be considered in any general review of life insurance legislation, but there is no compilation of them, as it is not needed for practical purposes. No one company is subject to all the laws governing domestic and foreign companies. in all states. But there are several which have to adjust themselves to the laws governing foreign companies in practically all the states, in addition to the domestic companies' laws of their respective home states. Therefore, there are some companies—the larger ones—which operate under nearly all the forty-five hundred requirements referred to. This gives one view of the present magnitude of the supervision of the business of life insurance by the states, in its practical application.

As to the character of these requirements, they range from broad principles of supervision to regulation of minute business details. In other words, some states believe that while the managers should be held responsible for the operation of their companies their judgment should not be restricted by a multitude of legal enactments. Other states, besides holding the managers responsible, also provide in detail as to how they shall perform various parts of their managerial

functions. Laws dealing specifically with the business of life insurance might be classified under the following broad groupings:

Regulating the administrative functions of the companies, including election of directors and officers, apportionment and limitation of expenses, compensation to agents, investment of capital stock and assets, maintenance of reserves, distribution of surplus to policyholders, keeping of records and accounts, provision for medical examinations, preparation and filing of reports, including annual statement, etc.

Pertaining to the rights of the insured, including provisions that guarantee their use of the reserve accumulations on their policies in event of lapse or surrender; loans on their policies; phraseology that makes the policy clear and not susceptible of misrepresentation, etc.

Dealing with the conduct and ethics of the business, including prohibition of rebating by agents, and use of misleading statements or incomplete comparisons tending to induce policyholders to lapse, forfeit or surrender their insurance.

Regulation of companies in their organization stage, including various provisions designed to prevent deception in promotion and sale of stock to the public.

Taxation and fees.

Functions and powers of state Insurance Departments, including valuation of policies, examinations of companies and determining solvency of same, licensing of companies and agents, filing of various reports made by companies, collection of taxes and fees, enforcement of laws and penalties, etc.

In addition to these groupings of laws specifically applying to life insurance there are many other statutes of general effect which concern the business, including regulations with respect to investments generally and their taxation; corporation laws requiring annual and special reports to be made to state officials, in addition to those furnished to the insurance supervision authorities; acts relative to corrupt practices and registration of legislative counsel, and anti-trust legislation so broadly drawn as to require reports and statements from life insurance companies.

While in theory all laws dealing with life insurance are supposed to be based primarily on the idea of protecting the interests of policyholders, as a matter of fact they are really approached from various viewpoints. Undoubtedly most of the legislation dealing with the administrative functions of the company, policy provisions, the conduct of the business and departmental supervision is approached from

what is regarded as the viewpoint of the policyholder. However, the same cannot be said of the various statutes imposing varying rates of taxation upon policyholders' funds, for the twelve million dollars thus annually collected is exacted chiefly as a revenue proposition for the benefit of the public generally. This sum is many times more than the cost of insurance supervision. A calculation made on the basis of 1907 statistics shows that the ratio of expenses of state insurance departments, including the supervision of life, fire and all other branches to the amount of life insurance taxes collected ranged from 2.6 per cent to 20.2 per cent, with the exception of a single state which collected no taxes. The state whose ratio was 2.6 per cent collected more than one and one half million dollars in life insurance taxes in 1907, while the cost of its insurance department that year was little more than $40,000.

One phase concerning the supervision of the life insurance business, which is lost sight of by legislators, as a rule, is that the policyholder is inseparable from the company. A burdensome restriction placed upon the business is placed upon the policyholders. A company is merely a collection of policyholders. It is, of course, most desirable that the interests of policyholders should be thoroughly protected by legal enactments. But life insurance is a highly technical business and efforts to legislate on the subject without deliberation and study as to the effect on the whole fabric are likely to result in burdensome restrictions entailing much expense to policyholders without any benefit to them.

Any expense that is added to the business increases the cost of insurance and therefore falls upon present or future policyholders. Not only is this true of the taxes and fees imposed, but also of the expenses caused by the diversity of statutory provisions in the states. If a general policy form which applies to most states has to be amended and specially printed for a certain state, that additional expense is borne by the policyholders. So is it also with respect to special forms of voluminous statements that may be required by some states. The preparation of a special report by a large company for one state recently involved the exclusive use of a band of clerks for several months. The present lack of uniformity among statutory requirements largely adds to the cost of insurance in many ways. At the home offices of all companies of considerable size there are various officials whose duties largely consist of keeping track of the statutory requirements in the different states and seeing that their companies conform to all of

them. This is expensive, but it would be still more expensive to violate any of these provisions, even innocently.

The year 1911 saw no diminution in the tendency to propose and enact legislation on the subject of life insurance. All told about 1650 bills were introduced in the legislatures of 43 states, including the District of Columbia, where some insurance bills were introduced in Congress. Of these 1650 bills 160 became laws. They ranged from one brief statute, requiring that notice shall be given to policyholders in connection with the merger of one insurance company with another, to a comprehensive code of 238 sections involving all branches of insurance.

New codes were enacted in Washington, Pennsylvania and Idaho. The Washington code is in line with advanced thought on the subject of regulation of insurance, and with respect to domestic companies particularly, it goes into much more minute detail than the laws of other states. As to foreign companies, its provisions in the main may be said to be in harmony with the laws of other states. It leads the laws of practically all of the states in one particular. This is the provision directing that the expenses of every examination or other investigation of the affairs of any insurance company made by the Commissioner shall be paid by the state. All the states impose various fees for performing certain duties, such as filing reports and other papers and also tax the companies heavily for revenue purposes, yet practically all make a special charge against the companies for the expense of examinations. The Washington innovation is in the interest of good government, for it removes any possible incentive for unnecessary examinations, yet provides for them if needed. The National Convention of Insurance Commissioners, the organization of the state insurance supervisors, from which much good has come in the matter of uniformity of practice and in otherwise advancing the standard of supervision, has taken a commendable attitude in the matter of examinations. At its 1910 session it adopted a resolution that no examinations should be made by any member of the Convention, of a company outside of its home state, without first requesting the Committee on Examinations of the Convention to co-operate. Action like this tends to discourage a practice of some officials in the past to make expensive trips to the home offices of distant foreign companies to make so-called examinations, irrespective of the fact that those companies may have been thoroughly examined within a short time by the insurance supervisor of their home state.

The Idaho code, which was not enacted with the usual deliberation which should attach to such important measures, contains some technical requirements that are unnecessary so far as the interest of policyholders is concerned and which are burdensome and expensive for companies to carry out. One of these is a provision that cash, paid up and extended insurance options available under the policy each year, upon default in premium payments, shall be shown in each policy by tables covering the full length of the premium paying period which technically is up to age ninety-six. The general practice is merely to figure in advance the value of such options for twenty years, which is more than the average length of a policy.

In Pennsylvania a fair and reasonable code was enacted, after much thought and study on the part of the Insurance Department. It revises existing laws so as to bring them up to modern requirements, and enlarges the department. It protects the interests of policyholders, and does not impose harsh or burdensome restrictions on the operation of the business. Like the Washington and Idaho codes, it includes a provision to protect the citizens of the state from the operations of unscrupulous promoters of new life insurance companies.

The funds of life insurance policyholders are ever a prey to the taxing authorities. As usual, 1911 had a large crop of taxation bills. Sixty-five of them applied to the business of life insurance and most of them provided for increased taxes. Had all the bills been enacted $900,000 a year would have been added to the $12,000,000 annual tax already imposed on premiums paid by life insurance policyholders. Earnest efforts, participated in by the policyholders themselves in some instances, showed the injustice of these measures, and the end of the year recorded increases in only a couple of Western states and they were slight ones. In Montana, where there is a heavy state tax on life insurance premiums, a law was enacted relieving life insurance from county taxation. In Alabama, where there is also a high tax on such premiums, a statute was passed reducing the amount of taxes that municipalities may impose. A material increase was enacted in California, but this was in conformance with a constitutional amendment adopted in 1910 and therefore, probably should not be considered in the legislation of 1911.

Laws dealing with the organization and powers of Insurance Departments but not taking the comprehensive form of codes were enacted in fourteen states. In Wisconsin, for instance, the Commissioner was given authority to require from any insurance company a deposit in

advance of such an amount as he shall estimate would be necessary for the expense of an examination. Another law enacted in Wisconsin provides that except as specifically authorized by statute, no officer or employe of the state shall directly or indirectly, receive or accept any sum of money, or anything of value, for the furnishing of any information, or performance of any service whatever relating in any manner to his duties. In Alabama it was enacted that the examination of domestic companies shall be each year instead of every two years. Michigan provided that the Commissioner shall not retain as perquisites any fees or other moneys received by him directly or indirectly for the performance of duties connected with this office.

In all, eleven states enacted laws to restrict the operations of promoters of new life insurance companies. Washington, Idaho and Pennsylvania did this in their new codes already referred to. The eight other states enacting laws on this subject were Connecticut, Massachusetts, Michigan, Missouri, Montana, Oregon, Wisconsin and California. These laws were placed on the statute books in response to a demand both from the public generally and life insurance interests to meet an evil that has developed within the last four years or so. The National Convention of Insurance Commissioners at Denver, Col., on August 26, 1909, adopted a resolution urging the various states to pass laws to regulate the matter. Organized bands of promoters have been going through the country forming life insurance companies and selling the stock in many instances through misleading statements as to profits that would be made. Usually these operators are not insurance men but merely stock promoters. They retain large percentages of the amounts paid for the stock, under the guise of expenses, and after the game has been worked in one locality they depart for other fields to do the same thing over again. A group of persons in the community thus find on their hands the form of a life insurance company with various obligations to stockholders and, possibly, policyholders, and without the necessary knowledge, experience or perhaps the additional means, to make the business successful. This situation has already brought about many failures of such companies, and the result has been to reflect discredit in the minds of the public upon the business of life insurance as a whole, although the business has not been in any way responsible for the actions of these stock sellers. The laws enacted to meet this evil generally follow the principle of giving the Insurance Commissioner or Superintendent jurisdiction over insurance companies in their formation as well as

after they are organized. The statute enacted by New York state in 1910 has been the one used most as a model by the states passing such laws in 1911. It provides that the Insurance Superintendent shall, as often as he deems it expedient, examine into the affairs of such companies and make a report thereon, which report shall be presumptive evidence in any action or proceeding against the corporation, its officers or agents. The Superintendent is also authorized to publish the report in one or more newspapers. Connecticut, Idaho, Montana and Oregon enacted the New York Law of 1910, using practically the same phraseology, while Missouri enacted it with additional provisions one of which makes it unlawful to pay more than 10 per cent of the total amount realized from the sale of capital stock for organization purposes. The statutes passed by Pennsylvania and Michigan make use of the New York Law in part. Wisconsin's law limits the promotion or organization expenses to ten per cent of the amount actually paid on subscriptions for the stock. The statute passed by California limits organization and promotion expenses of domestic insurance companies to 15 per cent of the total amount actually paid on capital stock, exclusive of surplus.

Several states in 1911 followed the lead taken by New York in 1909 in authorizing the insurance supervising authorities to take proceedings in court for the liquidation of a delinquent insurance corporation, including a company which has by contract of re-insurance or otherwise, transferred its business to another corporation, without having first obtained the written approval of the state supervisory official. Connecticut, Michigan, Pennsylvania, Washington and Wisconsin enacted statutes using not only the form of the New York Law, but, in most instances, its phraseology practically verbatim. The New York Law itself was amended during 1911 by applying its provisions to corporations in process of organization as well as those already organized. The effect of this is to give the state supervisor of insurance additional authority over companies in process of promotion.

The investing of policyholders' money so as to guarantee that it will bring in sufficient return to pay policies on maturity is a very important part of the business of life insurance. Many of the states have recognized the sacredness of these funds by providing that they shall be invested only in certain general classifications of securities regarded as safe. Some laws specifically state the classes of securities in which investments may be made. Others enumerate the classes which are prohibited, including, for instance, the stock of mining

corporations. The investments of life insurance companies are made up largely of United States, state, county and municipal bonds, the bonds and stocks of public utilities corporations and real estate mortgage loans. During 1911 measures were introduced in four states to restrict the investments of foreign insurance companies geographically, along the lines of the Robertson Law of Texas. Fortunately, for the interests of policy holders, none of these bills became laws. When the Robertson Law was enacted by Texas in 1907, twenty-three—nearly all—of the leading foreign life insurance companies doing business in the state retired. This law requires that seventy-five per cent of the reserves set aside to meet obligations to Texas policyholders shall be invested in certain specified local securities. The avowed object of the law was to compel foreign companies to make investments in Texas. This man-made statute utterly ignores the natural law of supply and demand affecting the flow of investments. It also takes from the managers and trustees of life insurance funds the right of exercising their judgment as to investments although it does not relieve these managers and trustees from being responsible if the compulsory investments should prevent their companies from meeting the test of solvency. Two elements enter into the making of investments for life insurance companies. First, the security must be absolutely beyond question. Second, the investment must earn a rate of interest to add sufficient to the reserve funds to pay policies upon maturity. The Texas law takes no heed of these conditions but merely says to foreign companies that if they wish to do business in the state they must invest in certain specified Texas securities. The companies which retired had no objection to Texas securities as such. But they were opposed to the underlying principle of the law that took from them the right to judge and decide as to availability of securities for policyholders' funds. Beginning with 1907 the subject of such compulsory investment has been considered in 24 states, either in the form of legislation actually introduced or talked of seriously among state officials. In only one state, Texas, has the legislation been enacted into law. The states in which it was introduced in 1911 were Montana, Missouri, North Dakota and Oklahoma.

Indiana enacted a law adding county highway bonds to the securities in which domestic insurance companies may invest. A law passed in Montana adds bonds issued by legislative authority secured by land grants and the bonds or warrants of any school district, county or city in the state.

State authorities are joining with the trustees of life insurance funds in seeking to give more stability and permanency to life insurance policies. The lapsing of life insurance means loss of protection to widows and orphans, which deficiency the state or its political subdivisions are often called upon to supply. One of the several causes of lapsing is what is called "twisting" in the insurance vernacular. This means the act of getting a man to give up his insurance with one company and taking it out in another. As such a transfer always involves the payment of a second commission it means more expense, while the practice itself has a tendency to unsettle the business. It is a practice deprecated by all reputable companies and agents alike and various states have passed laws to discourage it. The New York law on this subject, enacted in 1908, prohibited the making of any misrepresentations to any insured person for the purpose of inducing, or tending to induce such person to lapse, forfeit or surrender his insurance. This was strengthened in 1911 by an amendment prohibiting the making of any misleading representations or any incomplete comparisons of policies for such a purpose. Michigan and Ohio in 1911 enacted the New York Law with this amendment, and Pennsylvania placed in its code a section along the same lines. Rhode Island enacted a provision similar to the old form of the New York Law.

Another evil of the business, which, however, has become less of late years is that of rebating part of the premiums to policyholders by agents. Many of the states have had laws on this subject for sometime but the difficulty has been to get legislation that is effective. The high-minded attitude taken by agents within the business themselves is responsible for a great deal of the reform along this line of recent years. Idaho, Ohio, Rhode Island and Wisconsin amended their statutes on this subject in 1911 by making it a violation of law to receive a rebate as well as to give one. In this connection the Idaho, Ohio and Rhode Island enactments provide that no person shall be excused from testifying before a court or magistrate as to violations upon the ground that the testimony or evidence required may tend to incriminate him, adding the provision needed to make it constitutional that no person shall be prosecuted for or on account of any transaction concerning which he may so testify. Wisconsin also added a provision to its anti-rebate law to the effect that the insured, having knowingly and wilfully violated this statute, shall be entitled to recover from the company only such proportion of the amount otherwise payable under the policy as the difference between the

amount of the premiums which have become payable and the rebate would have provided for.

Ohio, Pennsylvania, Rhode Island, New York and New Jersey enacted laws tending to decrease the cost of industrial life insurance. These enactments amended existing anti-rebate laws by providing that where industrial insurance premiums are paid directly to the home or district offices of companies, a return of part of the premium may be made to the policyholders. One of the big expenses of industrial life insurance is the weekly collection at policyholders' homes by agents. This law will permit a lower rate of insurance for groups of policyholders, as, for instance, in the factory where all the workmen may become insured, and their premiums forwarded in one amount by the employer to the insurance company.

A trial of state insurance is to be made under a law enacted by Wisconsin. The statute provides that existing officials, including the Insurance Commissioner, shall operate a life insurance business for the benefit of the residents of the state. This is an experiment which will be watched with much interest. The theory back of the law is that the state can provide insurance cheaper than companies, because it will have no agency force to solicit business, and because being a state institution, it will have additional prestige. Some companies at various times during the history of life insurance have tried to do business without agents, but the general experience in the past has proved that the people do not take life insurance unless they are educated to do so through personal interviews. One of the arguments against state insurance is that it will be subject to the vicissitudes of changing politics, including a lack of continuous expert supervision and management. The Wisconsin Law provides that the life fund to be administered by the state shall be without liability on the part of the state beyond the amount of the fund paid in by the policyholders. Policies are issuable only to residents of the state and not in excess of $3,000 on any life or of $300 a year from age sixty on any annuity risk. Insurance in the state fund is optional, not compulsory.

Various other laws affecting life insurance were enacted in 1911, most of which have a place in one or more of the following classifications: False advertisements, annual statements to be made by companies, insurance of minors, regulation of agents, policy provisions, deposits of funds with state authorities, claims, fees for various duties performed by state officials, extension of powers of insurance depart-

ments, restrictions as to capital stock, mergers of insurance companies and reinsurance, and exemption of real estate mortgage loans from taxation.

ROBT. LYNN COX.

Medical Milk Commissions. State laws, local ordinances and private enterprises of the past few years bear witness to the practical interest that has been aroused on the question of pure milk, to the ends that only milk from healthy cattle be sold, that it be both produced in, and distributed from sanitary surroundings, that it be of a high standard and that the processes of pasteurization, evaporation and condensation of milk as well as of the making of butter, cheese etc. are safe-guarded for the public good. The latest departure and a perfectly logical one, in this on-rush of milk legislation, comes simultaneously from Massachusetts and Michigan, in the form of laws, passed in 1911, authorizing the incorporation of medical milk commissions in cities and towns. The purpose as stated in the Massachusetts law is "to supervise the production of milk intended for sick room purposes, infant feeding, use in hospitals and other cases." The Michigan law, in giving its object, reads slightly differently,—"for the purpose of supervising the production, transportation and delivery of milk which it is intended to use for infant feeding, sick room, clinical purposes." In Massachusetts the medical milk commissions of which there may be more than one organized in a city or town, may be incorporated under this law, by five physicians duly authorized to practice medicine in the state. Also, the members of the city or town board of health are ex-officio members of the commission. In Michigan the city or town health board must have in its membership two or more duly authorized physicians, to empower it to appoint a medical milk commission consisting of five physicians. Otherwise the members are named by the state board of health, the secretary of which as well as the local health officer are ex-officio members of the commission. Only one such commission may exist in a community. The term of office for the members is, in Michigan, for five years, the term of one member expiring each year, while the members hold office, in Massachusetts, seemingly for an indefinite period. In Michigan a member may be removed at any time by the board to which he owed his appointment and in both states, any member accepting salary, compensation or emolument of any kind, is liable to fine, removal from office, and disqualification from any future holding of office in a

milk commission. The sections of the two laws which deal with the agreements between the commission and the dairymen, for the production of milk under the supervision of the commission, are practically the same,—the agreements to be in writing, conditions for production of milk prescribed according to the standards of purity and quality fixed by the American association of medical milk commissions and the laws of the two states respectively. By the Michigan law, it is further provided that the commission may designate analysts, chemists, bacteriologists, veterinarians, medical inspectors, etc., prescribe their duties and remove or discharge any such persons employed by the dairymen. Also in Michigan, all containers must be sealed by the commission. In both states, the work of the commissions is at all times subject to investigation by the local or state health authorities and selling milk as certified that is not produced in conformity with the laws, is penalized. No financial provision for carrying out the work is included in either statute.

ETHEL CLELAND.

State Boards of Control. The value of a state board of control, unless its original intent becomes warped through partisan abuses, is the centralization of the financial and business administration of public charitable institutions with a view to large economies. In some states, notably in California, Minnesota, Ohio, Rhode Island and Wisconsin, correctional institutions are also controlled, and in Minnesota supervision is exercised over state educational institutions as well.

In California (Laws, 1911. Ch. 349) control is vested in a board of three members appointed by the governor, with salaries of $4000 each per annum. The secretary appointed by the board receives $2400. Each member must give bond for the faithful performance of his duties, in the penal sum of $25,000. The duties of this state board of control are to examine the accounts of the different state prisons, reformatories, state hospitals and other institutions, commissions, bureaus and officers of the state at least yearly, and oftener if necessary. Public institutions, maintained in whole or in part by state appropriations, and public buildings in the course of construction must be visited by some member of the board from time to time to determine the conditions therein existing and in the case of new buildings to discover whether all provisions of law in relation to construction and contracts therefor are being faithfully executed. All claims against the state, the settlement of which is not otherwise provided by law,

must be presented to the board and the same must be allowed or rejected within thirty days. Very broad auditing functions are permitted with respect to the money in the state treasury which must be counted by the board without previous notice to the state treasurer at least once a month. The board has charge of the sale of bonds, real estate and other property of the state and has authority to authorize the payment of deficiencies when an appropriation made by law has not been sufficient for actual necessities. In fact, such general powers of supervision over all matters concerning the financial and business policies of the state are given it that investigations and proceedings may be instituted by the board at any time when deemed necessary for conserving the rights and interests of the state. All contracts entered into by any state officer, board, commission, department, or bureau for the purchase of supplies and materials, or either must before the same becomes effective be transmitted to the board for approval, and it may also grant permits to purchase in the open market. In connection with the board of control a department of public accounting is established and a uniform system of accounting and reporting for any and all officers, charged with the custody and handling of public money or its equivalent, must be devised, installed and supervised. Biennial reports are made by the board to the legislature.

Illinois (Revised Statutes. 1909, Ch. 23) provides for a board of administration. There are five members, one of whom must be an expert, qualified to advise the board with regard to the treatment of the insane, feeble-minded and epileptic. The term of office is six years, the annual compensation $6000 each, and traveling expenses. This board exercises executive and administrative supervision over all state charitable institutions and succeeds to all the property rights of the boards of trustees hitherto in charge. It exercises control over all contracts for the purchase of supplies for state institutions.

In Ohio in 1911 a bill passed creating a state board of administration for the management of all state benevolent, penal and correctional institutions, except the Ohio Soldiers and Sailors Orphan Home, and this act went into effect in August, 1911.

Oregon (Laws, 1911. p. 170–171) has a state purchasing board consisting of the governor, secretary of state, and state treasurer, with authority to purchase supplies for certain specified state institutions. The secretary of state buys supplies for certain offices specially provided for by law, usually the law creating the office, and other offices buy independently out of their own appropriations.

By Chapter 825 of the Public Laws of 1912 the Rhode Island Legislature created a board of control and supply, numbering five members, for five year terms. The salaries of the chairman and the secretary are $3000 each, the other members receiving $2000 each. This board may purchase supplies and make contracts for repairs and alterations at the state institutions in Cranston, the state sanitorium, the state home and school for dependent children, the institute for the deaf and the school for the feeble-minded. It has charge of all the construction and furnishing of all buildings for any of the said institutions, and the power hitherto exercised by the board of state charities and corrections over the labor or prisoners and other inmates of the institutions is transferred to this board. It must provide for a uniform system of accounting, may appoint certain disbursing agents, and may also make purchases required by any state officer, board or commission in excess of $500 at any one time.

In Connecticut along many lines the comptroller does the purchasing for the state. Indiana has no purchasing and issuing agent for provisions, for the state board of accounts is systematizing the matter considerably, especially on the accounting side. In New Hampshire, although there is no restriction upon the purchasing of supplies of any sort other than state printing and binding, there is a law which provides that contracts for supplies in excess of a certain amount shall be let out to bids. In New Jersey there is an approach to official control in the commissioner of charities and corrections, and the state architect and the commissioner practically control extensions and enlargements to institutions. In New York there is no general law covering this subject, but there are provisions for the purchase of supplies for state charitable institutions. (Consolidated Laws, 1909. v. 5. p. 5390. Sec. 48.)

In Vermont a state officer, known as the Printing Commissioner, purchases all office supplies, such as paper, pens, pencils, typewriter supplies and the like. These are in charge of the sergeant-at-arms and are delivered by him to the different officers on requisitions issued to him. There is no fixed rule as to larger items though this is generally done through the sergeant-at-arms. Supplies for the state charitable institutions are looked out for by the several boards of trustees.

The subject of a board of control and supply has been agitated at times in several states although no affirmative action has been taken. This has been the case particularly in Connecticut, Maine and Michigan.

GRACE M. SHERWOOD.

Presidential Primary Elections—Legislation of 1910–1912. The most notable characteristic of primary election legislation during the past two years is the rapid extension of the application of the direct primary to national party machinery and nominations, through state, not national, action. For years the steady advance of the direct primary movement confined itself entirely to state party organization and nominations for offices elective within a single state. The selection of state party representatives in national party councils was passed over in silence, or expressly exempted from the direct primary, or legally to be exercised indirectly through delegate conventions. The only influence exerted by the direct primary on national party operations was indirect and roundabout. Hence the application of the direct primary to the choice of national committeemen, delegates to national conventions, and the instruction of delegates through a presidential preference vote is a distinct innovation. It marks the loosening of the bonds of excess-control by national over state party organization, and constitutes a long stride toward making national party machinery and nominations subject to legal regulation and more truly representatives of the will of the rank and file of the party.

The introduction of the direct primary into the field of national party activities began as early as 1906 with the Pennsylvania provision for the choice of delegates to national conventions at primary elections.[1] Wisconsin (1907), Oklahoma[2] (1908), and South Dakota (1909) adopted the innovation, and extended its application. In 1910, Oregon enacted the first law providing for a distinct presidential preference primary election.[3] These pioneers having blazed the way, there followed during the next two years the passage of similar acts by nine or ten states, five,[4] in 1911 and four or five[5] in 1912, making at least one-fourth of the states having such legislation.

These twelve laws present many marked similarities and some decided differences in scope and method. Two[6] provide for the direct

[1]Applies only to congressional district delegates, those at large being chosen by state conventions, the delegates to which are elected directly by the respective party voters.

[2]Provision repealed in 1909.

[3]Proposed by initiative petition and approved at the November election.

[4]N. J., N. D., Nebr., Wis., Cal. Wisconsin added the presidential preference vote to her law of 1907 for the direct choice of delegates.

[5]Md., Mass., Ill., Mich., and probably Maine. For want of a few votes the Michigan act failed to become effective in time for use in 1912.

[6]Pa., S. D.

choice of delegates to national conventions without a distinct presidential preference vote; three[7] for a presidential preference vote without a direct choice of delegates; while seven[8] provide for both a presidential preference vote and the direct choice of delegates.[9] Three states[10] require the selection of national committeemen by direct vote of the party electors; one, New Jersey, by the state central committee; while the others leave the selection to party usage. Finally, two states, Oregon and North Dakota, emphasize the public character of the functions of delegates to a national convention by providing that every delegate of a legally defined political party "shall receive from the State Treasury the amount of his traveling expenses necessarily spent in actual attendance upon said convention, . . . but in no case to exceed two hundred dollars for each delegate."

The provisions respecting delegates and committeemen are mandatory upon all legally recognized political parties. The presidential preference primary is merely permissive in five states,[11] while in five others[12] it is essentially mandatory, at least in spirit. "The qualified electors of the political parties subject to this law shall have opportunity to vote for their preference, on ballots provided for that purpose, . . . among those aspiring to be candidates of their representative parties for president," reads a typical provision. One-half[13] of these laws provide for a *separate* presidential primary election every four years, the other half,[14] for a *combined* presidential and general state primary election. The dates for holding these various presidential primaries range over a period of eleven weeks from March 19 to June 4. Only two, those of Oregon and Nebraska, fall on the same day. In every one of these states all political parties hold their presidential primaries on the same day and at the same polling places. They are conducted in the same general manner as regular elections, and entirely

[7]Md., Ill., Mich.

[8]Ore., N. D., Wis., N. J., Nebr., Cal., Mass.

[9]In all but two states, the direct choice of delegates includes alternates, both district and at large. California provides for the choice of alternates by the regular delegates and Wisconsin by the state central committee. In five states, Ore., Nebr., N. D., Wis., and Mass., the presidential preference primary applies to the vice-presidency also.

[10]S. D., N. D., Nebr.

[11]Wis., N. J., Md., Mass., Ill.

[12]Ore., N. D., Nebr., Cal., Mich.

[13]Wis., N. D., N. J., Cal. Mass., Mich.

[14]S. D., Ill., Pa., Ore., Nebr., Md., the last four by advancing the date of their general primary in presidential years.

at public expense. The party test and other qualifications for voting at presidential primaries are in every case exactly the same as those required at the general state primary election. Without exception a direct plurality vote suffices to instruct, nominate, or elect as the case may be.

Candidates for national committeemen may have their names placed on the primary ballot only by petitions signed by their respective party voters.[15] In South Dakota, the names of candidates for election as delegates to national conventions are printed on the ballot upon written request and a declaration of candidacy. But in the other states providing for direct choice, a place on the ballot is secured by such candidates only by petitions containing the signatures of a specified number[16] or percentage of party electors. With only two exceptions, the names of presidential candidates are to be printed on the ballot "solely on the petition of their political supporters"[17] in the state. "No signature statement, or consent shall be required to be filed by any such candidate." Two states, California and New Jersey, expressly provide that any person thus put forward as a candidate may withdraw his name by a written declination filed with the secretary of state. In marked contrast with the above policy, Illinois provides for a personal petition by presidential candidates to be indorsed by at least three thousand party voters; while Maryland requires both the filing of a certificate of candidacy and the payment of a fee in each of her twenty-seven counties and legislative districts.

The names of individual candidates, whether for president, national committeemen, or delegates to national conventions, are to be arranged on the ballot as follows: in two states, in the order of the filing of petitions; in four, in alphabetical order; in four more, according to a system of rotation. In six states, the names of candidates for the positions of delegates to national conventions appear on the ballot only individually and with absolutely no indication of their presidential preference with the one exception of Pennsylvania. There, would-be delegates may have placed on the ballot opposite their individual names, that of the candidate they prefer and wish to support for president. In New Jersey, South Dakota and California can-

[15]Nebr. requires 500 signatures in each of her 6 congressional districts, if not more than 5% of total party vote; S. D. and N. D., only 1% of state party vote.

[16]Varies greatly in different states: only 100 in N. J. and 250 in Mass. for all delegates, while 500 in Nebr. for district delegates and 3,000 for those at large.

[17]Number required in Nebr., 25; Mich., 100; Mass., N. J., Ore., Wis., 1,000; Cal. and N. D., 1% of state party vote.

didates for election as delegates may appear on the ballot not only individually but in groups to be voted for as a unit. In New Jersey, candidates may have printed opposite their names individually or in a group, and under the caption "Choice for President," the name of the candidate they favor. In South Dakota, a group may go on the ballot under the common motto or pledge of not more than five words. In California, a full set of candidates for election as delegates may go on the ballot as a group, on two conditions: first, that not less than one nor more than four of the candidates shall come from each congressional district; second, that such group has "the endorsement of that candidate for presidential nominee for whom the members of said group have filed a preference, or the endorsement of such a state political organization created in support of the candidacy of said presidential nominee as shall not be repudiated by him as lacking authority to make such endorsement."

Both California and New Jersey provide for the mailing of sample presidential primary ballots to the voters for their instruction. But the former state further provides that the sample ballot of each party shall be accompanied by a sheet of "biographical sketches of presidential candidates." These sketches are not to exceed three hundred words in length. "The biographical sketch of each candidate for presidential nomination shall be furnished by such candidate or by such state political organization created in support of his candidacy as shall not be repudiated by him as lacking authority" to do so. Those submitting such sketches must pay two hundred dollars a sketch to defray the cost of publication.

These presidential primary states form two groups with respect to the territorial or political unit of election and instruction of delegates to national conventions. In five states[18] two delegates are chosen by each congressional district and four at large, thus treating the district as the primary and the state as only a secondary election unit. All of this group of states except Pennsylvania provide for a presidential preference vote by all the party voters of the state; but make no attempt by law to define its operation, nor to add particularly to its moral and political force as an instruction to the delegates.

Illinois expressly provides that the preferential "vote of the state at large shall be taken and considered as advisory to the delegates and alternates at large to the national conventions of the respective political parties; and the vote of the respective congressional districts

[18]Pa., Wis., Nebr., N. J., Mass.

shall be taken and considered as advisory to the delegates and alternates of said congressional district."

In a second group of five states,[19] the delegates to national conventions are all elected by the state at large.[20] The state is treated as the sole and supreme unit or agency both for electing and instructing delegates. Oregon and North Dakota seek to make the preferential vote binding by requiring every delegate to take an oath of office that he will "to the best of his judgment and ability, faithfully carry out the wishes of his political party as expressed by its voters at the time of his election." California closely connects the choice of delegates with the presidential preference vote by providing for a full group of indorsed and pledged candidates, placed on the ballot under the name of the candidate they favor for president, so that the candidate carrying the state on the preferential vote will almost inevitably secure all the delegates. This state also has a permissive provision for a statement or pledge by a prospective delegate that if elected he will to the best of his judgment and ability support that candidate for president who received a plurality of the "votes cast throughout the entire state" by the voters of his party.

Michigan provides that the candidate receiving a plurality of the presidential preference "votes in the state . . . shall be declared to be the candidate and the choice of such political party for this state." The Maryland law goes the farthest in seeking to bind the delegates by the presidential preference vote. It provides that the person receiving a majority of a party preferential vote for president "has been chosen by the voters of the party . . . as their choice for candidate for President in the national convention for such political party, and all the delegates of such party . . . shall be instructed and bound to vote as a unit in the national convention for such candidate . . . as long as in their conscientious judgment there is any possibility of his being nominated."

L. E. AYLSWORTH

[19] S. D., Ore., N. D., Cal., Md.

[20] In Md. all the delegates are chosen by a state convention made up of delegates chosen directly on the date of the presidential preference vote. The result of the presidential preference vote is not ascertained as is usual in primary laws, by adding up the total vote for a candidate throughout the State. The vote of each county and district is considered by itself, and the carrying of any county or district by a candidate merely serves legally to instruct and require its delegates to the state convention to vote for him. Not the party voters but the state convention voting by counties and districts under the unit rule as instructed by the primary vote formally and legally makes the presidential preference nomination.

CURRENT MUNICIPAL AFFAIRS

WILLIAM BENNETT MUNRO

The question of permitting cities to take by condemnation proceedings, more private land than is actually needed for public improvements with the idea of reselling unused portions and thereby recouping themselves for part of the outlay, is one which has received a good deal of attention in various parts of the country within the last few months. Throughout Europe it has long been the practice of cities to follow the principle of excess condemnation in carrying through street improvements. It was under this system that Baron Haussmann put through his great scheme of street reconstruction in Paris a half-century ago and under somewhat similar arrangements the London County Council built the magnificent thoroughfare known as the King's Way. This latter undertaking was carried through at practically no cost to the public treasury, since the increased value of adjacent property about offset the outlay both for construction and for the acquisition of the land.

In most of the states of the Union constitutional provisions which forbid the taking of private property for other than strictly public purposes has placed serious obstacles in the way of many large municipal undertakings. These constitutional limitations have so restricted the authority of the city in the matter of land takings that although public improvements add greatly to the value of private property within adjacent zones, the municipal treasury gets only a small share of this increment by way of betterments. Moreover, when new thoroughfares are constructed or old streets widened, the present restrictive arrangements result in the creation of irregular and small-sized plots of land which are unsuitable for proper building development. It is coming to be realized that the replanning of American cities can be brought within the bounds of possibility only if the constitutional limitations relating to the taking of private property are somewhat relaxed.

It is now eight years since the Ohio legislature passed the first American act recognizing the principle, which, for what of a better term, is commonly called excess condemnation. A similar measure

was adopted in Maryland in 1905 and since that date Virginia, Pennsylvania and Massachusetts have made progress along the same line. An attempt to amend the constitution of New York state in the same direction was thwarted by an adverse popular vote last November. The legislature of Massachusetts has already taken advantage of its new constitutional authority and several street-widening projects which have been held in abeyance by Boston during the last few years are now being pushed forward.

Three plans for the expansion of large American cities are now receiving consideration in the municipalities concerned. A bill providing for a Greater San Francisco has been brought forward by an initiative petition and will probably be submitted to the voters next November. It is planned to take into the limits of the greater city the cities of Oakland, Berkeley, and Alameda, leaving to those, however, some degree of control over their own local affairs.

The Massachusetts Real Estate Exchange has presented to the legislature a plan for the creation of a Greater Boston and Governor Foss has transmitted a special message endorsing the project. The plan contemplates the establishment of a Metropolitan Boston, taking in Cambridge, Brookline, Somerville, and a score of smaller cities and towns. The new district would have a population, according to the last census, of 1,439,120, which would give it rank as the fourth city of the United States. Provision is made in the plan for the abolition of the present Metropolitan Parks Commission and the Metropolitan Water and Sewerage Board. The governing body of the district would consist of a council of nine members, eight elected by popular vote and one (the chairman) appointed by the governor of the state. The various cities and towns would be permitted to retain their present municipal government and to handle all matters at present controlled by them except police, fire protection, public utilities, main thoroughfares and technical education. The measure has not been favorably received by the people of the suburban municipalities, and there is little or no chance that it will be enacted into law during the present year.

A scheme for the creation of a Greater Baltimore, commonly known as the Field Plan, is now under discussion by the press of that city. The scheme as planned by Mayor Preston and City Solicitor Field provides for the extension of the city limits to include Roland Park, Mt. Washington, Forest Park, Arlington, and several other important suburbs.

It is proposed to divide the combined municipalities into four boroughs each of which would be allowed a considerable measure of local self-government, but to combine under unified control the administration of the police, water supply, and public school systems. The plan if carried out would give Baltimore a population of about one million. Meanwhile, the new charter for Baltimore has passed the legislature and if ratified by the voters of the city will become effective in 1915. The new charter provides for a council of twenty-six members and for a board of estimate and awards, made up of the mayor and controller, the president and vice-president of the council, and the city solicitor. Many of the administrative powers formerly possessed by the council are given over to this board.

A complete list of the cities which have established a commission type of government prior to January 1, 1912, is printed in the issue of the *Engineering News* for April 4. Since that date the system has been adopted in Menomonie, Superior, and Janesville, Wis.; in Nebraska City, Neb.; and in Holton, Kan. The full list now comprises slightly more than two hundred cities situated in thirty-four different states of the Union. More than half of these cities are places with less than five thousand population and only six are cities above one hundred thousand.

The commission plan has now been in operation long enough to permit the drawing of some conclusions from its actual workings. One of these is set forth in a leaflet recently issued by the New York Bureau of Municipal Research, which points out that the new system of government has not changed the calibre of the men in municipal office. An examination of ten typical cities shows that of the fifty commissioners now in office, no fewer than thirty-five were municipal officeholders before the adoption of the commission plan. It appears therefore that, while the new system of municipal administration may enable those who are in office to do their work more efficiently than was possible under the old type of urban government, it does not greatly change the character of the men chosen to public office by the voters. Another criticism upon the actual working of commission government is presented in the editorial columns of the *Engineering News* for April 4. The complaint is made that no marked increase in the recognition given to administrative experts is apparent in those cities which have adopted the new political framework. All that commission charters sometimes do, it is claimed, is to take for granted that an inexperienced

layman can be made into an expert by giving him some technical title such as Commissioner of Public Safety. The situation is made worse, it is urged, by the "common though not universal failure of commission charters to provide an adequate civil service system without which there is no assurance of selection or advancement for merit nor for retention in office during worthy service and good behavior."

At the municipal election in Seattle on March 5, Mr. George F. Cotterill was elected mayor after an exciting campaign. His opponent was former Mayor H. C. Gill, who was removed from office by a recall election a year ago. Mayor Cotterill's plurality was less than a thousand (32,085 to 31,281), and it is generally conceded that his election was due to the influence of the women voters. The new mayor is a prohibitionist and a single taxer, but is pledged to carry on the chief policies which the city has been following since the recall of ex-Mayor Gill.

The ballot also contained twenty-seven questions submitted to the voters for their decision, most of them relating to proposed amendments to the city charter. Of these fifteen were adopted and twelve rejected. One of those accepted was a provision for the establishment of a municipal telephone plant. Two single tax amendments were among the propositions rejected.

The municipal election in Milwaukee on April 2 resulted in the defeat of the Socialist ticket which was elected to office by a large majority two years ago. The outcome does not seem to have been so much a repudiation of socialism as a victory for non-partisanship. Up to two years ago the administration of the city was absolutely under the domination of partisan machines and the citizens seem to have welcomed the incoming of a Socialist mayor as an effective blow to political partisanship. The local situation having been cleared by two years of a Socialist administration, the efforts of a non-partisan element have found the way to success at the polls more easy.

The 1912 meeting of the National Municipal League was held at Los Angeles, Cal., from July 8 to 12. In connection with this meeting a committee of Los Angeles citizens, appointed some time ago by the City Council, made public its draft of a new charter which is to be voted upon at the municipal elections of next November. The program of the League's meetings included papers on the following

topics: commission government for large cities, municipal finance and taxation, adequate civil service law, the expert in municipal affairs, honesty plus efficiency, how to work the university graduate into municipal government, excess condemnation, state versus municipal regulation of public utilities, street railway franchises, the actual operation of the initiative and recall in California, the actual operation of woman's suffrage on the Pacific Coast, home rule in California cities, socialism in municipalities, how to educate the people to demand better government, the boss' day in court, the elimination of the party boss in California cities, the work of the League of California Municipalities, an adequate housing program, a municipal health program, commercial value of city planning, civic education, the handling of the social evil.

The National Assembly of Civil Service Commissioners held its fifth annual meeting on June 21–22, 1912, at Spokane, Wash.

The annual convention of the American Water Works Association was held at Louisville, Ky., on June 2–8, and the National Electric Light Association held its annual meeting in Seattle, Wash., on June 9–14. The National Conference of Charities and Correction met in Cleveland, Ohio, on June 12–19.

The Fourth National Conference on City Planning was held at Boston on May 27–29. As at previous conferences the program included papers and discussions relating not only to the physical improvement of cities, but to the various general topics in municipal administration.

The International Congress of Chambers of Commerce will be held in Boston next September. This is the first time the congress has arranged to meet in the United States, previous meetings having been held at Liège, Milan, Prague, and London. Elaborate arrangements are being made to entertain the distinguished delegations which are expected to be present from every large city of Europe; the state of Massachusetts and the city of Boston have both made large appropriations to defray the expenses of the congress, and Congress has been asked to make a grant of $50,000 for the purpose of affording the delegates a tour through the chief cities of the United States.

The International Civic Bureau, with headquarters in New York City, has arranged for a European civic tour from June 27 to September 1. The arrangements for the tour are in charge of Mr. Frederick C. Howe. It is proposed to undertake a field study of such matters as

city planning, housing, civic centers, garden suburbs, welfare work, and similar undertakings, in the cities of England, France, Belgium, Holland, Germany and Austria. Those who join the party will be afforded the opportunity of meeting many city officials, as the foreign arrangements are in the hands of local authorities in each of the cities to be visited.

The city of Düsseldorf in Prussia has established a municipal college for the education of higher city officials. For some years a few of the larger cities of the German Empire have maintained special training schools for the employees in certain departments of administration, as for example police and fire protection. The Düsseldorf institution, however, is the first to undertake education in every branch of the municipal service. The college year will consist of two semesters of about three months each, following the plan of the regular German universities. Only those who have graduated from a *gymnasium* of the first grade will be admitted, although this rule may be waived in the case of those who have already had active administrative service in the provincial or municipal employ. The curriculum covers such matters as administrative law and practice, the organization of city government, the powers and duties of municipal employees, public health and sanitation, poor relief, etc. Instruction will be given not only by a regular staff, but by professors from German universities and technical schools as well as from the higher official service of the city. The charge for tuition is fixed at one hundred marks (twenty-five dollars) per semester.

An interesting experiment in political education has been undertaken by the Chicago School of Civics which recently established a branch known as the Workers' School of Municipal Government. The professed object of the school is to train working men for intelligent citizenship, to give them some grasp of civic problems, and to make clear to them their opportunities for improving the general plane of municipal politics. Classes are held on Monday and Wednesday evenings from eight to ten, and at these meetings the first half-hour is devoted to a lecture. The remainder of the evening is given over to discussion by various groups into which the students are divided. During the past winter the average attendance has been about one hundred and the spirit displayed by the workingmen is believed to promise very well for the future success of the venture. No definite

curriculum has as yet been planned; the idea is that the school should work out for itself a satisfactory method of teaching municipal ethics to the rank and file of the community.

The New York Bureau of Municipal Research has published a booklet entitled "Six years of Municipal Research for New York City." The publication contains a resumé of the work undertaken and performed by the Bureau during the years 1906–1912. Since its establishment, the Bureau has received contributions amounting in all to over $650,000. Its staff of workers now numbers nearly fifty and its undertakings cover a wide field. For the most part, its work has been related to the finance of municipal government, and it has had a substantial share in the reorganization of New York's system of audit and accounting.

Arrangements have been made for a comprehensive investigation of municipal affairs in Atlanta, Ga., to be undertaken by the New York Bureau of Municipal Research as a preliminary to the establishment of a local bureau in the former city.

During the last three months the Milwaukee Bureau of Economy and Efficiency has issued Bulletins Nos. 11–15. Bulletin No. 11 is entitled "Water Works Efficiency" and contains a survey of the various sources of water waste. Bulletin No. 12 deals with the general question of garbage collection, and Bulletin 13 is devoted to the inspection of milk supply. Bulletin No. 14 contains a discussion of the present capacity and future possibility of the Milwaukee water supply, and Bulletin No. 15 deals with the work of the health department in the matter of popular education and hygiene.

Since the last issue of the *Review* the Chicago Bureau of Public Efficiency has issued a report on the park administration of the city. Several special reports have also been printed embodying the results of investigation made by the Merriam Commission into the street, water, and special assessment departments of Chicago.

The Chicago Civil Service Commission has issued a report upon its recent investigation of the police system of the city of Chicago. The Civic League of St. Louis has published a pamphlet entitled "Proposed Ordinances for the Regulation of the Milk Supply of St. Louis."

Some recent publications relating to municipal government in America are the following:

A City Plan for Dallas, by George E. Kessler, (Dallas, Tex., 1912).

Street Lighting, by J. M. Bryant and H. G. Hake. (Bulletin No. 51 of the University of Illinois.)

Replanning Small Cities, by John Nolen. (New York, 1912).

Modern Baths and Bath Houses, by W. P. Gerhard. (New York, 1912.)

Water Works for Small Cities and Towns by John Goodell. (New York. 1912.)

The Debaters' Handbook Series, published by the H. W. Wilson Co. of Minneapolis, has issued a revised and enlarged edition of its *Selected Articles on Commission Government.* Revised editions of the Handbooks on *Direct Primaries* and on the *Initiative and Referendum* have also been published. New volumes have recently appeared on Municipal Ownership, on Woman's Suffrage, and on Child Labor. Each of these volumes is provided with a selected bibliography.

Messrs. D. Appleton & Co. have published, in the National Municipal League series, a volume of selected articles on the *Initiative, Referendum and Recall* and one on *Municipal Franchises*, edited by Clyde L. King. Announcement is made of a volume on *City Planning*, edited by Mr. George E. Hooker, to be issued in May. A volume on *Excess Condemnation* under the editorship of Mr. H. S. Swan and Mr. R. S. Binkerd is in preparation and will appear within a few months.

The proprietors of the Canadian Municipal Journal have arranged to publish a *Municipal Year Book of Canada.* It is intended that the volume shall be an annual publication.

Two comprehensive and informing reports on municipal sewage disposal have recently appeared in printed form. One is issued by the city of Milwaukee and was prepared by Messrs. Alvord, Eddy and Whipple, the other, which deals with the sewage problems of Pittsburgh, is the work of Messrs. Hazen, Whipple, Stearns, and Eddy.

Announcement is made that owing to the limited appropriation made by Congress for the United States Bureau of the Census, it will not be possible to publish until next autumn the 1909 volume of Statistics of Cities containing 30,000 population or more. This annual

publication is of great interest and value to students of municipal government; but both of these qualities are greatly impaired when the printed figures do not appear until three years after they have been collected. It is much to be regretted that adequate appropriations for this useful undertaking are not being made at the proper time.

The last report of the Commissioners of the District of Columbia contains a discussion of the water supply of the national capital and deals particularly with the question of metered service. Through the Pitometer service for waste detection, the Commissioners report that an underground leakage amounting to about six million gallons per day was discovered and stopped. The installation of new meters during the year 1911 has brought the proportion of metered service up to 29 per cent of the whole supply. The Commissioners recommend that arrangements should be made to meter the balance of the whole system within the next six years. To provide for the cost of this new equipment they believe that water rates ought to be increased from July 1, 1912. The Commissioners point out that the water charges in Washington are now lower than those of any other American city; the minimum rate at present being $4.50 per year. Unless some step of this sort is taken the Commissioners believe that a new aqueduct will shortly be necessary, but by metering the entire service the per capita consumption can be so reduced that the present supply would serve a population double that now inhabiting the District.

Mayor Fitzgerald has laid before the Boston City Council a proposal to consolidate the Park, Public Grounds, Bath, and Music Departments of the city. The plan provides for a single department to be known as the Department of Public Recreation, under the control of three commissioners to be appointed by the Mayor with the approval of the State Civil Service Commission. The chairman of the commission, who must be "an architect with landscape experience," is to have a salary of $7500 per year. The other commissioners are to be paid $4000 each. In a communication addressed to the various civic organizations of Boston, Mayor Fitzgerald points out that the work of these four branches is intrinsically of the same nature, and that while there has been no open friction among them, the present system prevents the city from securing that correlation of services which is necessary for good service and economy. It is generally agreed that Boston has at present too many administrative departments, there

being twice as many in Boston as in New York, Chicago or Philadelphia. It is probable that the proposal will be accepted by the City Council.

The new Cambridge Subway which extends from Park Street, Boston, to Harvard Square, Cambridge, was opened at the beginning of April. The tunnel, which is about three and a half miles in length, was built by the Boston Elevated Railway Company at a cost of approximately ten millions. The running time from Harvard Square to Park Street is eight minutes. Legislative authority has been obtained for the construction of two other subways in Boston, one of them extending from Park Street to Andrew Square in Dorchester by way of the South Fenway, the other from Boylston Street to Charlesgate on the way to Brookline. It is estimated that the cost of these two subways, together with the new equipment made necessary, will be about $20,000,000.

The organization known as "Boston 1915" has been formally disbanded. The avowed purpose of this movement was to secure some degree of co-operation among the many civic organizations of the Boston metropolitan district. In this it was to some degree successful, having brought the more important civic associations into an informal coalition.

By a large majority the voters of Los Angeles on May 28 adopted an initiative ordinance empowering the municipal authorities to make a thorough appraisal of all street railway values within the municipality as a preliminary to regulating the rates of fare.

The long talked of amalgamation of the electric tubes and railroads of London with the London General Omnibus Company has been finally carried through. The properties owned by the companies concerned in the new amalgamation represent a value of $175,000,000 and the merger will go into effect as soon as the shareholders have ratified the provisional arrangement. To all intents and purposes the London transportation system will henceforth be worked as though it were a single unit. Through tickets will be issued entitling passengers to use either underground or surface transportation as may be necessary. Timetables have been arranged throughout the entire metropolitan district and provisions have been made for close con-

nections at all points where different systems of transportation come into contact.

The government of the Indian Empire has decided to secure a modern plan for Delhi, the new capital. The conditions at Delhi are such as to afford an unusual opportunity in the matter of city planning, and the imperial government has engaged Mr. J. A. Brodie, the city engineer of Liverpool, to take charge of the planning. Delhi has a population of about 230,000, but the area upon which the new capitol will be located is still undeveloped and it is altogether probable that the transfer of the seat of government to the city will more than double its population within a few years.

Winnipeg, Manitoba, has had a rather trying experience in public ownership of telephones. A few years ago the government of the province purchased the lines of the Bell Telephone Company and undertook to operate them as a public enterprise. Three years of operation have proved that the service cannot be maintained under public supervision at the rates formerly charged by the company. Consequently, a large increase in telephone charges was put into operation on April 1, 1912. It is estimated that in the case of business telephones in Winnipeg the change will nearly double the cost of telephone service to patrons. Before the introduction of public ownership, however, the Bell Telephone Company made substantial profits at the old rate of charges.

A proposal framed by initiative petition will be submitted this year to the voters of Missouri providing for a constitutional amendment classifying taxable property into four groups as follows: (1) personal property; (2) improvements on land; (3) land independent of improvements; (4) the franchise values of public service corporations. The proposed amendment provides that taxes on the improvements on land shall be gradually reduced until 1920, when they shall be entirely abolished. Provision is further made that all property subject to taxation shall be assessed at its actual value without any deductions whatever, and furthermore, that no poll tax or business taxes shall be imposed within the state.

As a first step in the introduction of economies, the City of Bridgeport, Conn., has established a Board of Contract and Supply to take

charge of all municipal purchases. The City Council has also authorized the Mayor to appoint a Committee of Audit, composed of three citizens. This Committee is given power to investigate and examine into the whole financial system of the city and has charge of the task of installing a uniform system of accounting. An appropriation of $20,000 has been made for the use of the Committee of Audit, which has secured as its expert adviser Mr. Peter White of St. Louis, who is now consulting accountant of the Chicago Bureau of Public Efficiency.

The Indianapolis Board of Trade proposes the establishment of a municipal advisory commission for that city. This commission would be made up of five members appointed for a five-year term by the Board of Trade, the Commercial Club, the Merchants' Association, the Manufacturers' Association, and the Indianapolis Trade Association. The duties of the commission would be to obtain information concerning franchises sought from the city, contracts, proposed loans, and various other public proceedings. On such things it would make recommendations to the city authorities.

For the purpose of arousing interest in the question of municipal home rule, the Municipal Association of Cleveland published some time ago a report entitled, "Constitutional Home Rule for Ohio Cities." The report is a concise summary of conditions under the older règime of special legislation and under the present plan of rigid uniform legislation. It points out the objections to both systems, made obvious by Ohio's experience, and recommends municipal home rule as the only reasonable solution of the problem.

Shortly after the publication of this report there met in Columbus the Ohio Municipal Home Rule Conference, composed of 136 delegates representing 53 Ohio cities. This conference recommended to the Constitutional Convention a model constitutional provision, embodying its ideas upon the subject of municipal home rule. By this provision the General Assembly is given power, (1) to provide for the incorporation and government of cities by general laws and may also pass special acts which, however, may not go into effect for thirty days, within which period a referendum may be secured in the municipality affected by the proposed act; (2) it is provided that "any city or village may frame and adopt a charter for its own government and may exercise thereunder all powers of local self-government; but all such charters shall be subject to the general laws of the State except in

municipal affairs." A small minority of the conference who objected to this section, submitted as a substitute the following: "Any city or village may frame and adopt a charter for its own government in the manner prescribed in Section 3 of this article, and may exercise thereunder all powers of local self-government, including the power to acquire, own, construct, and operate any public utility, subject, however, to the right of the General Assembly to pass general laws affecting the welfare of the State as a whole." It was believed by the Conference that the first quoted provision would more nearly secure the autonomy of cities in municipal matters. The second proposal would certainly be open to a judicial interpretation exceedingly favorable to the control of the General Assembly. (3) Sections 4 and 5 of the provision give to the municipalities authority to make regulations regarding education and the exercise of police power when not in conflict with the general laws of the State. (4) Section 6 provides that the municipality may acquire, construct, own, or operate public utilities. (5) Section 7 provides for the manner in which the city shall frame its charter and amendments thereto. (6) Finally, sections 8 and 9 limit the taxing powers of cities and provide that the General Assembly may require reports from municipalities as to their financial conditions and transactions.

Before adjournment the Conference resolved itself by the adoption of a constitution into the Ohio Municipal League with Mayor Newton D. Baker, of Cleveland, as president, Mr. Elliott Pendleton, of Cincinnati, as first vice-president; and Mr. Mayo Fesler, of Cleveland, as secretary.

The Municipal Government Association of New York State was organized at Albany in January last. Its declared objects are to promote the cause of municipal home rule, to secure the enactment of a general statute enabling cities of the state to adopt self-made charters, and to work for the elimination of national party designations from the municipal ballot.

The New York Board of Estimate and Apportionment has made an appropriation of $200,000 for the establishment of a fire prevention bureau. This bureau, which is to be under the control of the fire commissioner, will undertake a comprehensive study of various possible measures for the reduction of the city's fire hazard.

A prolonged litigation between the city of St. Louis and the United Railways Company has been brought to an end by a judicial decision which upholds the contention of the municipal authorities. The decision confirms the city's right to collect from the company's gross revenue one tenth of one cent for each passenger carried on the company's line. Announcement of the decision caused a decided fall in the market value of the railway company's securities.

An agreement has been reached between the city government of Toledo and the Toledo Railways and Light Company which brings to an end, for the present at least, various differences existing between them. By the terms of this agreement the street railway company is to maintain a three-cent fare for four hours each day, two hours in the morning and two in the afternoon. During all other hours six tickets will be sold for twenty-five cents and transfers given over all parts of the company's lines.

At an election held as the result of an initiative petition presented by the Electrical Workers' Union of San Francisco, the voters of that city expressed themselves by a considerable majority in favor of a project for the municipal ownership of a telephone system.

The first woman's city club has been established in Los Angeles, Cal., and now possesses a membership of 1200. In its organization and plan of work it follows the line laid down by similar men's clubs in Boston, Philadelphia, St. Louis, and other cities. Its chief aim is to bring into close contact and mutual acquaintance the great body of women voters who are interested in civic improvement through the agency of non-partisan effort.

The Common Council of Richmond, Va., has passed an ordinance creating an administrative board to which will be entrusted immediate control of all the city's administrative affairs, with the exception of the police, fire and health departments. The board will be made up of five members who will be elected by popular vote next June and will take office in September.

In Chicago arrangements have been made for opening thirteen public school buildings as evening social centers. During the past year nine buildings have been used for this purpose and the experi-

ment has proved popular. It is now planned to broaden the work, particularly by providing at the building instruction and recreation which will be attractive to adults.

A recent act of the Pennsylvania Assembly has authorized the city of Scranton to establish three new municipal departments, namely, a department of city supplies with the city treasurer at its head, a department of art made up of nine members, including the mayor and the director of public works *ex officio* and a department of city planning, likewise composed of nine members appointed by the mayor. Similar departments have already been established in Pittsburgh, Pa.

The National Municipal League has recently established an annual prize of twenty dollars, to be known as the "Cincinnati Prize." Competition is open to all students of the University of Cincinnati and will be for an essay upon some subject chosen each year bearing upon the municipal government of the civic life of the city of Cincinnati. This year the subject chosen is "Municipal Civil Service Reform."

The City Council of Portland, Ore., some months ago appropriated $10,000 to provide work for the city's unemployed. Similar action was recently taken by the commissioners of Topeka, Kan.

On May 28 the voters of Atlantic City, N. J., voted to adopt a commission government charter.

NEWS AND NOTES: PERSONAL AND BIBLIOGRAPHICAL

EDITED BY W. F. DODD

Prof. John B. Phillips of the University of Colorado has been appointed a member of the Colorado State Tax Commission, for a six-year term, and has resigned his university position.

Prof. Edward G. Elliott of Princeton University will be on leave of absence next year, and will probably spend a part of the time in Europe.

Dr. Frank Green Bates, formerly of the University of Kansas and more recently librarian of the Rhode Island Historical Society, has been appointed asssociate professor in the University of Indiana and will devote his attention more especially to the field of municipal government. Professor Bates will also organize a Bureau of Municipal Research at the Indiana State Library.

Mr. William Franklin Willoughby, now a member of President Taft's Commission on Economy and Efficiency in Government, has been appointed McCormick professor of jurisprudence at Princeton University.

Prof. J. W. Jenks of Cornell University has become professor of government and public administration and director of political studies in the School of Commerce, Accounts and Finance of New York University.

Prof. George Grafton Wilson of Harvard University will be exchange professor in France from that institution for 1912–13.

Dr. John C. Dunning has become assistant professor of political science in Brown University.

Prof. Allen Johnson of Yale University will publish in the fall, through the Houghton, Mifflin Co., a volume of readings in American Constitutional History for the use of college classes.

Dr. R. S. Saby has been promoted to an assistant professor in Cornell University.

Dr. Robert H. Whitten, Librarian-Statistician of the New York Public Service Commission, First District, has been granted a leave of absence to undertake an investigation of public service regulation in Great Britain, in behalf of the Department of Interstate and Municipal Utilities of the National Civic Federation.

Mr. Earl Crecraft has been appointed instructor in politics in the new School of Journalism of Columbia University.

Mr. Dixon R. Fox has been appointed lecturer in politics in Columbia University.

Mr. William Bethke of the University of Minnesota has been appointed instructor in political science at the University of Colorado.

Mr. S. C. McNemar has been advanced from an instructorship to an assistant professorship in international law at George Washington University.

Prof. H. Parker Willis of George Washington University will be on leave of absence next year. Prof. C. W. A. Veditz will be acting dean of the College of the Political Sciences during Professor Willis' absence.

Prof. Paul S. Reinsch concluded his lectures at the University of Leipzig early in July and returned to the United States at the end of the month.

Prof. H. L. McBain, of the University of Wisconsin, published in July of the current year, two volumes, entitled *Readings on City Government.*

Prof. Chester Lloyd-Jones, of the University of Wisconsin, has in process of completion a work on *Statute Law-making in the United States.*

Mr. U. G. Dubach and Mr. R. M. Zillmer, of the University of Wisconsin, have been appointed assistants in political science at the University of Wisconsin for the coming year.

Prof. J. W. Gannaway, of Grinnell College, is a member of the Political Science faculty of the University of Wisconsin for the summer session.

Mr. Charles H. Burr of Philadelphia has been awarded the Henry M. Phillips Prize of $2,000, offered by the American Philosophical Society for the best essay on "The Treaty Making Power of the United States and the Methods of its Enforcement as Affecting the Police Powers of the States."

Those interested in Philippine local government will welcome the publication of the *Municipal Code and the Provincial Government Act*, compiled and annotated by George A. Malcolm (Manila: Bureau of Printing, 1911. Pp. xiii, 455).

The Primary Election Laws of California (Sacramento, 1912, Pp. 159), and the *General Election Laws of the State of Nebraska* (Lincoln, 1911, pp. 208) have been issued by the respective states.

There has been issued for the use of the Committee on Interstate Commerce of the United States Senate a small volume on *Trusts in Foreign Countries* (Washington, 1911, pp. 132), in which have been printed the laws of Australia, Canada and New Zealand, several articles by Dr. Francis Walker, and two consular reports upon the legal status of trusts in Germany.

The Library of Congress has recently published two lists which will be of value to students of political science: *Select List of Reference on the Initiative, Referendum, and Recall* (Washington, Government Printing Office, 1912, pp. 102); *Select List of References on Employers' Liability and Workmen's Compensation* (Washington, Government Printing Office, 1911, pp. 196).

A recent volume published by the World Peace Foundation contains *in extenso* the argument of Senator Root in behalf of the United States before The North Atlantic Coast Fisheries Arbitration Tribunal at The Hague. Dr. James Brown Scott, who was of counsel for the United States in this case, furnishes a scholarly and elaborate history and analysis of the points at issue and the decisions thereupon. The texts of pertinent treaties, statutes, circulars and correspondence are given in an appendix.

The Proceedings of the Third American Peace Congress, held in Baltimore, Maryland, May 3–6, 1911, make a substantial volume of 504 pages (Waverly Press, Baltimore, Md.). The papers are edited by Eugene A. Noble, Chairman of the Publications Committee. Mr. Theodore Marburg furnishes a chapter entitled "Philosophy of the Third American Peace Congress," in which the leading ideas in the various addresses are summarized.

Political Unions is the title of the Creighton lecture delivered in the University of London, November 8, 1911, by H. A. L. Fisher. (Oxford: Clarendon Press. 1911. Pp. 31).

In the tenth issue of *The Canadian Annual Review of Public Affairs* (Toronto: Annual Review Publishing Co., 1911. Pp. 648) the editor J. Castell Hopkins, covers in a most satisfactory manner the public happenings in the Dominion for the year 1910—those relating to Dominion politics, to Provincial politics, to the economic and social life of the country, and to Canada's relations to the Empire. Among the topics discussed are the Navy Act of 1910, Sir Wilfred Laurier's tour of Canada beyond the Great Lakes, the increased cost of living, the policies and activities of the Canadian Manufacturers' Association, labor organizations, the work and mission of the Canadian Clubs, and the socialist movement in the Dominion. There is an excellent index.

The Report of the Employers' Liability and Workmen's Compensation Commission of the State of Michigan (Lansing, 1911, pp. 152) contains much valuable information concerning industrial accidents and their compensation in Michigan. The commission recommended the enactment of an optional compensation law.

The Massachusetts Commission on Minimum Wage Boards submitted in January a report which constitutes a real contribution to the subject. Careful investigations were made of women's wages, the conditions of their work, and the cost of living. The commission recommended the establishment of a permanent minimum wage commission, with power to establish minimum wages for women and minors in any employment, after an investigation and recommendation by a wage board.

Professor E. R. A. Seligman has edited a revised edition with new material, of the report on the *Social Evil* (Putnam's, 1912) first prepared in 1902 under the direction of the Committee of Fifteen. The original report, with the recommendation of the committee, are reprinted without changes. The new matter includes three chapters (forming Part III) on the development during the decade 1902–1912, dealing with the European movement, the white slave traffic in Europe and America, and two years progress in the United States, with an appendix on the sanitary supervision of prostitution and a somewhat comprehensive bibliography.

The Yale University Press has published in book form an essay on *Alexander Hamilton*, by William S. Culbertson, Ph. D., which won the John A. Porter Prize in 1910.

Four Aspects of American Development is a series of four lectures delivered by John Bassett Moore of Columbia University at the Johns Hopkins University, dealing with Federation, Democracy, Imperialism and Expansion.

Volume XXIX, No. 1 (Jan.–Feb.–March, 1912) of the Revue du Droit Public et de la Science Politique contains, in French translation, the full text of the Greek constitution as amended last year.

Among recent books of interest to political scientists are: *Government by all the People*, by Delos F. Wilcox (Macmillan); *Concentration and Control; A Solution of the Trust Problem*, by Charles R. Van Hise (Macmillan); *The Supreme Court and the Constitution*, by Charles A. Beard (Macmillan).

Professor Frank A. Updyke, who was a member of the recent New Hampshire Constitutional Convention, has prepared a pamphlet containing *Suggestions for Applying the Short Ballot Principle in New Hampshire* (New Hampshire Short Ballot Organization. Pp. 31). New Hampshire already possesses a comparatively short ballot, but Professor Updyke proposes a reduction of elective officers, both state and local so that the voters may have not more than six offices to fill at any one election.

The Oberlin College Civic Club prepared and distributed, for use in the primary election of May 21, a pamphlet giving the records and

qualifications of *Candidates Seeking Nomination and Election in Lorain County, Ohio.* The statements regarding candidates were prepared in an impartial manner, somewhat after the manner of those issued by the Municipal Voters' League of Chicago, and are said to have had a good deal of influence in the primary election. This is one of the first cases in which college students have undertaken work of this character, and the success at Oberlin College should inspire students in other colleges to undertake similar tasks.

Die Entwickelung des Wahlrechts in Frankreich seit 1789, by Dr. Adolf Tecklenburg (Tübingen, J. C. B. Mohr, 1911, pp. xiv, 264) is a systematic history of the electoral franchise in France. The author devotes some attention to the subject before the French Revolution, and gives a full discussion of electoral changes down to the present time. A good deal of attention is given to the movement for proportional representation.

Dr. X. S. Combothecra, the author of *Conception juridique de l'Etat*, which appeared in 1899, has published a new essay in political theory entitled *La conception juridique des regimes etatiques.* (Paris: Larose et Tenin, 1912. Pp. 126.) The work is devoted to a careful analysis of governments of the chief nations of the world with a view to a classification of them according to their fundamental characteristics. A considerable portion of the study is given over to a criticism of the classifications of other writers.

A recent addition to the "Countries and Peoples Series" published by Scribner's Sons is *Japan of the Japanese*, by Joseph H. Longford, formerly English consul at Nagasaki and now Professor of Japanese at Kings College. The description of the social classes and customs and of the language and literature of the country is excellent. Special chapters are devoted to the Press, the Civil and Criminal Law, and to Police and Prison. The government and politics of Japan receive, however, no direct treatment.

Under the title *Le Facteur Économique dans l'Avenèment de la Democratie Moderne en Suisse*, Vol. I. *L'Agriculture a la fin de l'Ancien Regimè*, (Geneva: Georg & Co., 1912. 8vo. 235 pp.) William E. Rappard presents the first part of a larger work which shall eventually describe the relations of the modern industrial revolution to the growth

of self government in Switzerland. The economic changes were predominately industrial, but so intimately connected with agriculture that the study begins appropriately with the productions of the soil in the closing period of the old system.

The second edition of Ernest Lemonon's *L'Europe et la politique britannique*, has appeared from the press of Fèlix Alcan (1912. Pp. 524). In a supplementary chapter of thirty pages the constitutional crisis in England, 1909–1911, is discussed with judgment and lucidity. The first edition of this excellent work was issued in 1909.

The fifth volume of *La vie politique dans les deux mondes*, edited by A. Viallate and M. Caudel, and covering the period from October 1, 1910 to September 30, 1911, has made its appearance from the press of Fèlix Alcan. Besides chapters dealing individually with the different countries and groups of countries, for the most part by well known authors, André Tardieu furnishes an introductory essay on the international politics of the year. There are also chapters dealing especially with international treaties and conventions, economic interests and the socialistic movement. References, whenever necessary, to earlier volumes of the series increase the value of this admirable survey of the politics of the year.

The Modern Woman's Rights Movement, by Dr. Kaethe Schirmacher has been translated from the German by Dr. C. C. Eckhardt of the University of Colorado (New York: The Macmillan Co. 1912. pp. xvi, 280). Dr. Schirmacher takes up each country separately, and gives numerous details regarding the social, economic and political position of women. Perhaps the most serious criticism of the book is that it is too much a compilation of detailed facts, or in some cases of statements not of fact but of what the author supposes to be such. Many of the statements are irrelevant, some are clearly incorrect. The book nowhere gives a clear statement of the advances made in recent times by women in our social and political life. The field is still open for a work which shall satisfactorily treat the subject with which this book deals.

The Reform of Legal Procedure, by Moorfield Storey (Yale University Press, pp. vii, 263), is a sane and well-balanced discussion, in non-technical language, of the defects in our present system of legal pro-

cedure. Only when the author refers to Mr. Roosevelt does he lose control of a calm and self-possessed style. The text of the book was first presented in the form of lectures before the Yale University Law School, on the William L. Storrs foundation. Mr. Storey presents nothing that is novel or sensational, but sets forth clearly the need for reform, and his book should be read widely among lawyers. In order to improve our judicial system he suggests among other things a simplified and non-technical procedure, the concentration of greater power in the hands of judges, an appointive judiciary and higher judicial salaries, the reduction of the number of appeals, and prohibition of reversals except for substantial error.

Professor H. Berthélemy and G. Jèze of the University of Paris have prepared an interesting memoire on the power of courts to declare laws unconstitutional, and the essential part of this memoire has been published in the Revue du Droit Public et de la Science Politique (vol. xxix, no. 1. Jan.—Feb.—March, 1912). This memoire was presented to the second chamber of the Roumanian Court of Ilfov, and resulted in a declaration by this court that an act of the Roumanian parliament was unconstitutional. Professors Berthélemy and Jèze state the theory of judicial power to declare laws unconstitutional in its baldest form, and their arguments add nothing to those already known in this country, but the rather full discussion of judicial power in other countries is of great value. In spite of numerous errors the memoire is of sufficient importance to deserve translation into English.

Mr. R. W. Seton-Watson has recently added two books to his already numerous contributions upon Austro-Hungarian politics. *Corruption and Reform in Hungary: A Study of Electoral Practice* (London, Constable, 1911, pp.xvi, 197) is in the main a discussion of particular cases of electoral abuses practiced in non-Magyar districts, and does not present a clear account of present electoral methods and of proposed reforms in Hungary. The book is characterized throughout by the author's strong sympathy for the non-Magyar races. *The Southern Slav Question and the Habsburg Monarchy* (London, Constable, 1911), advocates Serbo-Croatian unity under the Hapsburg sway, with close relations between the Hapsburg monarchy and Servia and Montenegro. The book is written in a partisan tone, but is valuable.

The Judicial Work of the Comptroller of the Treasury (Cornell Studies in History and Political Science, vol. III, 1911. pp. xiii, 164) is a useful study in administrative law. After tracing the history of the office of comptroller, the author discusses somewhat fully the comptroller's jurisdiction, and then treats in detail the decisions of the controller with respect to appropriation acts, public revenues, disbursements for services to the government, and interpretation of contracts. In this part of the work it would have been of value to have a fuller statement of the administrative organization of the Treasury Department, and of the respective jurisdictions of the Comptroller of the Treasury and the Court of Claims.

The author devotes three chapters to a comparison of the Comptroller's work with similar functions in France and Germany, and presents the best brief account of the control of treasury operations in these countries. Students of administrative law will welcome the chapter on "American compared with Continental Jurisdiction over claims against the State," where the author compares the administrative jurisdictions of France and Germany. This chapter, however, does not bear a close relation to the rest of the book.

American Colonial Government, 1696–1765, by Oliver Morton Dickerson (Cleveland, Arthur H. Clark, 1912. pp. 390), is a study of the British Board of Trade in its relations to the American Colonies. The chapters on "Difficulties of Colonial Administration" and "Treatment of Colonial Legislation" are of especial value to students of political science. The author presents the fullest discussion available of the royal veto of colonial legislation, and makes a real contribution to this important subject. With respect to appeals to the King in Council from the colonial courts, the treatment is not so satisfactory. Perhaps the most serious criticism of this book is that as to its citation of the manuscript records of the Privy Council. For the whole period covered by this book the parts of these records dealing with the colonies were in print before 1912 (*Acts of the Privy Council, Colonial Series*, vols. 1–4, 1613–1766), yet the author gives citations only to the manuscript record. Moreover, the citations of the manuscript are only by volume and page, without the precise date, so that they give practically no aid to a person who desires to run down the author's references in the printed acts of the Privy Council.

Mr. Samuel Robertson Honey has issued a book entitled *The Referendum among the English*, the sub-title of which is "A Manual of 'Sub-

missions to the People' in the American States." (London: Macmillan and Co. pp. xxxv, 114). The main characteristic of the book is its failure to give any adequate account of the referendum in the United States. Tables are printed of the votes upon questions submitted to the people in Massachusetts, New Hampshire, Rhode Island and Connecticut. Some votes on constitutional questions in other states are collected from Thorpe's collection of charters and constitutions. The book is of no value to students in this country and can hardly prove of much use to advocates of the referendum in England or elsewhere. An introduction by J. St. Loe Strachey adds nothing to the value of the book.

Of much greater value is *The Initiative, Referendum and Recall*, edited by Prof. William Bennett Munro (New York, Appleton. 1912. Pp. viii, 365. National Municipal League Series). The editor has collected a number of the most important discussions already in print and in his selection has wisely not confined himself to papers read before the National Municipal League. An introductory chapter by the editor adds to the usefulness of the volume. In a collection of this character one would not expect to find any important new contribution to the subject, but it is to be regretted that room should not have been found for some careful analysis of initiative and referendum provisions in this country. It would be well to call the attention of the reader more definitely to the fact that there are varying types of the initiative and referendum. In the bibliography it should have been worth while to mention C. O. Gardner's article on *The Working of the State Wide Referendum in Illinois* (published in this REVIEW, V, 394), the only careful study of the influence of ballot forms on popular voting. Frederic J. Stimson's *Popular Law Making* is included in the bibliography and is starred as one of the important books, apparently because of its misleading title, for the book contains only incidental reference to, and nothing of value upon, the initiative and referendum.

The agitation in France for the enactment of a "statute of functionaries" regulating the status and guaranteeing certain rights to the employes of the state has recently called out a large number of books, brochures and articles relating to the various aspects of the question. The most pretentious of these contributions is a book of more than 900 pages by Charles Georgin, entitled *Le Statut des Fonctionnaires-L'Avancement, son organisation-ses Guaranties* (Librairie Generale de

Droit et de Jurisprudence Paris, 1912). Mr. Georgin discusses at great length the present status of the functionaries in the various branches of administration, methods of appointment and promotion, their rights and duties and the desirability, not to say the imperative necessity of enacting a comprehensive law providing certain guarantees against favoritism in making appointments and promotions, and according to them the right of association. During the past five years practically every ministry has promised such a statute but as yet none has been passed. Mr. Georgin analyzes several of these projects and submits one of his own which he thinks would meet the situation. He has so thoroughly discussed every phase of the question in his voluminous treatise that apparently nothing has been left for others to say. His work is thoroughly scientific and is based on the most extensive research and intimate knowledge of the subject. In addition to abundant citations to the literature on almost every page of his work he adds a bibliography which should prove invaluable to students.

In a work entitled *The Liability of Railroads to Interstate Employees* (Boston: Little, Brown & Co., 1911. Pp. 571) the author, Mr. Philip J. Doherty, discusses in a convenient form the legislation of Congress fixing the liability of railroads for injuries suffered by their employees while engaged in interstate commerce. The various cases in which these statutes have been construed and applied are collated and intelligently discussed. The chapter entitled "When is a Railroad Engaged in Interstate Commerce" is, however, hardly adequate. Thus, to give a single example, on page 76 there is cited a list of cases with the bare assertion that they support the proposition that a shipment transported from a point in one state through a contiguous state to another point in the state of origin is intrastate in character, and another list of cases which, it is declared, negative this proposition, but without any attempt to explain this apparent conflict of authorities. In fact there is not this conflict, at least in the Supreme Court, as readily appears when one examined the cases which are cited (*Hanley Kansas City Ry.*, 187 U. S. 617, and *Cinn. Packet Co.* v. *Bay*, 200 U. S. 179). Upon the other hand the constitutionality of the acts is discussed at an unnecessary length, a full third of the volume being devoted to this topic, and much ground covered which can hardly be said to be, or to have been seriously debatable even before the decision in *Mondon* v. *N. Y. N. H. & H. R. R. Co.* was rendered. A chapter

of thirty-three pages is devoted to a review of the Hoxie case in which the doctrines there asserted are severely but justly criticized. In an appendix the texts of the several statutes are given.

The British Imperial Conference of 1911 has given rise to several books. In *The Imperial Conference: A History and a Study*, (London, Longmans, 1911, 2 vols.), Richard Jebb traces the growth of the Imperial Conference from its inception in 1887, when its first meeting was brought about by accidental circumstances rather than by any conscious idea of promoting imperial federation. Originally the Conference was an informal organization, lacking any governmental significance. From this beginning the author traces the development of the Conference until it becomes a definite institution, with stated though infrequent meetings, with the English Prime minister as presiding officer, and its membership limited to those holding cabinet positions. Mr. Jebb's work is much broader in scope than a mere recital of facts connected with the conference, and is in reality a history of the movement toward British federation. The author is a profound believer in British federation, and thinks that Britain must choose between federation and disintegration. The work is permeated with the idea that the only possible basis for a permanent federation is an economic one. It is colored by the author's very evident prejudice against the Liberal party in England, but is a scholarly and valuable addition to the literature of the subject.

The Imperial Conference of 1911 from Within (London, Constable, 1912, pp. vii, 175) is by Sir John G. Findlay, a representative of New Zealand at the Conference of 1911. In this little book the author gives an entertaining account of the work of the Conference; the greater part of the book is devoted, however, to a discussion of New Zealand's proposal for the creation of a representative imperial council.

Étude sur la Responsabilité des Groupments Administratifs by L. Couzinet (Paris, Rousseau 1911, pp. 306) is the title of a doctor's thesis which deals with the responsibility of the state and its local subdivisions for injuries committed against private individuals. Monsieur Couzinet shows that during ancient and mediaeval times no such responsibility was recognized but that the doctrine of irresponsibility was nearly everywhere abandoned during the Nineteenth Century. In France, and it is mainly with French practice that his study deals, the responsibility of the state, as well as that of the departments and

communes, for damages sustained by individuals on account of the acts of the administration is now admitted, though of course there are exceptions. Thus for acts which are governmental or political in character as contra-distinguished from those which are purely administrative (*actes de gestion*) the responsibility of the state is not recognized and of course this is true of legislative acts and for the most part of judicial errors. The competent tribunal for determining the liability of the state and the amount of the indemnity is the Council of State, the administrative court of common law in France, except in certain cases enumerated in the laws. The whole question is studied from every point of view, the opinions of the commentators reviewed and the decisions of both Council of State and the Court Cassation, analyzed. Incidentally he discusses the subject of administrative jurisdiction, reviews the objections which have been raised against it and presents a statement of the advantages that are claimed for it. Altogether the study is thorough and carefully done.

Among the more useful of the many doctor's theses prepared for the law faculty of Paris is one entitled *De la Responsabilité Civile des Fonctionnaires*, by Monsieur Nesmes-Desmarets (Giard et Briere, Paris, 1910, pp. 350). Speaking of the multiplicity of functionaries in France (there are now nearly a million, or about one for every forty of the inhabitants) he remarks that the individual finds himself in relation with some agent of the state at almost every moment of his life and it is therefore highly important that he should be protected against encroachments upon his rights. Passing over the protection afforded by means of the disciplinary and penal responsibility to which functionaries are subject—neither of which is sufficient—he reviews the systems of civil responsibility which have been provided in the principal countries of Europe and America. In England the civil responsibility of the agents of the state is fully admitted and they are all liable to prosecution before the judicial tribunals for unauthorized acts against individuals even when committed in the performance of public functions. There, he says, public functionaries are not privileged persons and are liable as private citizens for injuries committed. In the United States the rule is practically the same. In Italy all functionaries except prefects, subprefects and syndics are civilly responsible to private individuals for injuries, and since 1865 no previous authorization from the administration has been required to institute a prosecution. In Belgium since 1831 the rule has been substantially the same, if not more liberal. In Switzerland the federal jurisprudence

recognizes the full civil responsibility of all functionaries whenever they violate the constitution or laws. In Austria, however, the civil irresponsibility of functionaries is still the rule. In Holland there is as yet no general law on the subject but various special laws have been enacted providing that functionaries shall be civilly responsible to individuals for certain injurious acts. In France, where the principle of the separation of powers formerly occupied such an important place in the jurisprudence of the country, an authorization of the Council of State was necessary to enable an injured individual to prosecute a functionary. The protection thus afforded was wholly inadequate but the Council of State by a liberal interpretation as to who were functionaries from time to time enlarged the privilege to prosecute. The Charter of 1830 promised a general law on the responsibility of functionaries but the promise was never fulfilled. A similar promise was made under the Republic of 1848 but it too failed of realization. Finally in 1870 the requirement of an authorization to prosecute was abolished and the principle of civil responsibility was established. However, the jurisprudence of the Council of State makes a distinction between injuries committed through the personal fault of the functionary and those committed in the exercise of his public functions (fault of service). For the former faults they are civilly responsible, before the judicial tribunals, to private individuals; for the latter they are still irresponsible though the state according to the existing jurisprudence assumes the responsibility in such cases. Monsieur Nesmes-Desmarets expresses the hope that in time the civil responsibility of judicial magistrates will also be provided for, as they are already responsible for certain judicial errors.

The question of electoral reform, now and for several years past, the leading political issue in France, has been made the subject of two doctoral dissertations: *La Reférme Électorale en France*, by Jules-Louis Chardon (Rousseau, Paris, 1910, pp. 329) and *La Representation Proportionnelle devant le Parlement Français*, by Gaston Tronqual (Masson, Poitiérs, 1910, pp. 162). Both authors pass in review the history of the movement since its inception, both analyze the causes of the dissatisfaction with the present system, that is to say the method of *scrutin uninominal* with majority representation only, and both discuss the reforms that have been suggested. The advantages and disadvantages of the methods of *scrutin d'arrondissement* and *scrutin de liste* are dwelt upon by both writers and the experience of France with both systems is reviewed at length. Monsieur Tronqual has little

to say in favor of the former method and he is a pronounced partisan of the system of *scrutin de liste* with proportional representation. Monsieur Chardon's study is more impartial and he does not feel so sure of all the merits claimed for proportional representation. He points out much more fully than Monsieur Tronqual the dangers of the system and expresses serious doubt as to its efficacy as a remedy for the existing evils. Altogether this study is much the more thorough, valuable and convincing. Both studies however are very interesting and nowhere else can one find the question of electoral reform in France so fully treated in its various aspects. The subject was debated at great length in the Chamber of Deputies in 1909 and the Chamber approved the principle of the *scrutin de liste* with proportional representation by a decided majority only to rescind its action after the Briand government had threatened to raise the question of confidence. At the elections of 1910 the question was the leading issue and the principle was approved by a large majority of the electors. The Poincaré ministry upon its accession at the beginning of the present year declared itself in favor of reform and the question is now being again debated by the Chamber of Deputies. The opinion of the country is clearly pronounced but the issue in the Chambers is doubtful.*

*In the preparation of these notes assistance has been received from Professors Blaine F. Moore and J. W. Garner.

LIST OF DOCTORAL DISSERTATIONS IN POLITICAL SCIENCE

A list of doctoral dissertations in progress in the field of history is annually issued by the Department of Historical Research of the Carnegie Institution, and a similar list for political economy is annually published, the list of dissertations in political economy for 1912 appearing in the *American Economic Review* for June, 1912. In one or the other of these lists may be found most of the dissertations of interest to students of political science, but a number of political science dissertations are included in neither of these lists. The following list, has been compiled partly from responses received from the several universities, and partly from the published lists of historical and economic dissertations. A date where given after the dissertation title indicates the probable date of completion. For the year 1911 a list similar to that given below appeared in the August, 1911, number of this Review. (Vol. V, p. 456.)

BROWN

L. B. Shippee, A. B. Brown, 1903; A. M. 1904. The early Constitutional History of Oregon.

BRYN MAWR

Mary P. Clarke, A. B. Kansas, 1904; A. M., 1906. The Board of Trade, 1696–1783.

Margaret S. Morriss, A. B. Woman's College of Baltimore, 1904. Maryland under the Royal Government, 1689–1715.

CALIFORNIA

C. J. Du Four, A. B. Wisconsin, 1902. Diplomatic Relations between the United States and Mexico, 1821—?

CHICAGO

F. B. Carver, A. B. Nebraska, 1909. History and Critical Examination of the Taxation System of Illinois.

E. F. Colburn, Miami, 1907; A. M. Cincinnati, 1908. The Republican Party in Ohio, 1854–1865.

J. F. Ebersole, Ph. B. Chicago, 1907; A. M. Harvard, 1909. History of the National Banking System, 1864–1874.

Frederic B. Garver, A. B. Nebraska, 1909. The Subvention in American State Finance. 1912.

Charles K. Guild, A. B. Manitoba, 1909. Trade Relations between Canada and the United States. 1913.

Cleo Heraon, Ph. B. Chicago, 1903; Ph. M., 1909. The Secession Movement in Mississippi.

Howard A. Hubbard, A. B. Ohio Wesleyan University, 1904; A. M., 1906. The History of the Government Regulation of Railroads in the United States since 1906. 1913.

H. A. McGill, A. B. Butler, 1902. The Congressional Caucus.

T. C. Pease, Ph. B. Chicago, 1907. John Lilburne and the Levellers.

J. R. Robertson, A. B. Beloit, 1904. The Republican Party in Illinois, 1854–1872.

A. P. Scott, A. B. Princeton, 1904; B. D. Chicago Theological Seminary, 1910. A Comparative Study of the Criminal Legislation of Massachusetts and Virginia in Colonial Times.

S. R. Weaver, A. B. McMaster, 1910. History of the Taxation System of Canada.

E. J. Woodhouse, A. B. Randolph-Macon, 1903; LL. B. Virginia, 1907. The Development of the Judicial System in Virginia before 1860.

COLUMBIA

Israel Samuel Alderblum, A. B. College of the City of New York, 1908; A. M. Columbia, 1909. The Valuation of Railways. 1912.

Thomas A. Beal, A. B. Utah, 1906. The Valuation of Franchises. 1912.

F. O. Berge. Corrupt Practice Acts in the United States.

Roy G. Blakey, Ph.B. Drake, 1905; A. M. Colorado, 1910. The Beet Sugar Industry of the United States. 1912.

O. G. Cartwright, A. B. Yale, 1893; A. M., 1901. A History of the American Consular System. 1912.

S. W. Colvin. The Bi-Cameral System as Exemplified in the New York Legislature.

Earl Crecraft, A. B. Franklin. Political Doctrines of James Madison.

W. W. Davis, B. S. Alabama Polytechnic Institute, 1903; M. S., 1904; A. *M. Columbia, 1906.* The Civil War and Reconstruction in Florida.

James Levi Deming, A. B. Cincinnati, 1889; A. M. Bethany, 1900; Graduate Student Yale, 1908–1910. Immigration to the United States, 1776–1820. A Critical Study of Its Causes and Effects. 1912.

Harriette F. Dilla, A. B. Michigan, 1908; A. M., 1909. The Politics of Michigan during the Civil War and Reconstruction. Published.

W. E. Dunn, A. B. Texas, 1909; A. M. Leland Stanford, 1910. The Office of President in the Latin-American Republics.

W. W. Feigenbaum, A. B. Columbia, 1907; A. M., 1908. Ratification of the Federal Constitution in New York.

Alexander Fleisher, A. B. Pennsylvania, 1908; A. M. Wisconsin, 1911. The Enforcement of Labor Laws with Special Reference to Child Labor. 1913.

H. S. Gilbertson, A. B. California, 1903. Minor Political Parties since 1865.

Howard Charles Green, A. B. College of the City of New York, 1902. The Radical Movement of the American Revolution. 1912.

Robert M. Haig, A. B. Ohio Wesleyan, 1908; A. M. Illinois, 1909. A History of Taxation in Illinois. 1912.

W. P. Hall, A. B. Yale, 1906. English Political Societies, 1789–1795.

F. A. Higgins, A. B. Columbia, 1908; A. M. 1909. History of the Doctrine of *Quia Emptores.*

R. R. Hill, A. B. Eureka, 1900. The Office of the Viceroy in Colonial Spanish America.

C. L. F. Huth, A. B. Wisconsin, 1904; A. M., 1905. The Right of Asylum in the Greco-Roman World.

B. B. Kendrick, B. S. Mercer, 1905. The Work of the Joint Committee on Reconstruction, 1866–1867.

Howard C. Kidd, A. B. Geneva, 1908; A. M. Columbia, 1911. The Development from Laissez-faire to Legislative Control in the United States. 1913.

E. P. Kilroe, A. B. Columbia, 1904; A. M., 1905; LL. B., 1906. The Origin and Development of the Society of Tammany in the City of New York.

S. S. Laucks. The Pennsylvania Legislature: A Study in Representative Government.

Oswald W. Knauth, A. B. Harvard, 1909. The Anti-trust Law. 1913.

V. K. W. Koo. The Status of Aliens in China.

Y. Ma. Budget Making in American Cities.

Louis Mayers. State Courts as Final Interpreters of the Federal Constitution.

J. R. McCain, A. B. Erskin, 1900; A. M., 1906; LL. B. Mercer, 1907; A. M. Chicago, 1911. Georgia as a Proprietary Province.

W. G. McLoughlin, A. B. College of St. Francis Xavier, 1907; A. M. Columbia, 1911. The Taxation of Corporations in New Jersey. 1913.

A. B. Mead, A. B. Miami, 1909. Charity School Legislation in the Early Half of the Ninteenth Century and its Relation to the Development of the Public School System.

Belle W. Montgomery, A. B. Winthrop, 1901; A. M. Columbia, 1907. The Attitude of President Grant towards the South.

W. T. Morrey, A. B. Ohio State, 1888; A. M. New York, 1893. Bolivar and the Spanish-American Revolution.

R. W. Patterson, A. B. Oberlin, 1904; A. M. Columbia, 1910. The National Republican Party between 1878 and 1888.

A. E. Peterson, A. B. Tufts, 1888; A. M., 1892. New York as an Eighteenth-Century Municipality.

Elsie M. Rushmore, A. B. Vassar, 1906; A. M. Columbia, 1908. The Indian Policy during Grant's Administration.

E. B. Russell, Ph. B. Vermont, 1906. Action of the Privy Council on Colonial Legislation.

Yetta Scheftel, A. B. Northwestern, 1908; A. M. Chicago, 1907; Berlin, 1908–1909. Theory and Practice of Land Taxation. 1912.

Edward Schuster, A. B. Columbia, 1902. Early History of English Equity.

D. C. Sowers, B. A. Baker, 1904. The Financial History of New York State since 1789.

H. A. Stebbins, Ph. B. Syracuse, 1906; Ph. M., 1907. Party Politics in New York State after 1865.

C. Mildred Thompson, A. B. Vassar, 1903; A. M. Columbia, 1907. The Social and Economic Reconstruction of Georgia.

J. B. Todd, A. B. Dickinson, 1887; A. M., 1890. The Era of Civil War and Reconstruction in Delaware.

Leslie Vickers, A. B. Sydney (N. S. W.), 1908; A. M. Glasgow (Scotland), 1910; B. D., Union Theological Seminary, 1911. The Arbitration Court in Australia. 1912.

S. Vineberg, A. B. McGill, 1908; A. M. Columbia, 1908. Provincial and Local Taxation in Canada. 1912.

M. C. Wright, A. B. Vassar, 1908; A. M. Columbia, 1910. History of the Province of Florida.

CORNELL

Frederick Herbert Gilman, A. B. Wesleyan, 1909; A. M. Cornell, 1910. Federal Supervision of Banks.

John Allen Morgan, A. B. Trinity College (N. C.), 1906; A. M., 1908. State Aid to Transportation in North Carolina.

E. D. Ross, Ph. D. Syracuse, 1909; Ph. M., 1910. The Liberal Republican Movement.

George Cline Smith, A. B. Oklahoma, 1908. Legislative and Judicial History of the Interstate Commerce Commission.

Harry E. Smith, A. B., A. M., De Pauw, 1906. The United States Federal Internal Tax History from 1861–1871. Completed.

G. F. Zook, A. B. Kansas, 1906; A. M., 1907. The Royal African Company (1662–1715).

HARVARD

Daniel Huger Bacot, Jr., A. B. Charleston, 1908, A. M., 1909; A. M. Harvard, 1910. The South Carolina Land System, in relation to Political and Social Institutions. 1914.

Arthur Edward Romilly Boak, A. B. Queen's, 1907; A. M. Harvard, 1911. The Magistri of the Roman Republic and Empire. 1913.

A. H. Buffington, A. B. Williams, 1907; A. M. Harvard, 1909. The Spirit of Expansion in the United States prior to 1860.

K. W. Colgrove, A. B. Iowa, 1909; A. M., 1910. The History of Legislative Instructions in the United States.

Edwin Angell Cottrell, A. B. Swarthmore, 1907. The Government of Newport, Rhode Island. 1913.

Charles Claflin Davis, S. B. Harvard, 1901; LL. B., ibid., 1910. Nature of Law. 1913.

Joseph Stancliffe Davis, A. B. Harvard, 1908. The Policy of New Jersey toward Business Corporations. 1913.

Ralph Kendall Forsyth, A. B. Indiana, 1908; A. M. Stanford, 1909. History of the Maritime Unions. 1914.

Clifton Rumery Hall, A. B. Amherst, 1906; A. M. Harvard, 1908. The Secretary of State as a Diplomat. 1913.

Ralph Emerson Heliman, Ph. B. Morningside College, 1906; A. M. Northwestern, 1907. Chicago Traction. 1913.

T. N. Hoover, A. B. Ohio, 1905; A. M., 1906; A. M. Harvard, 1907. The Monroe Doctrine.

Orren Chalmer Hormell, A. B. Indiana, 1904; A. M. Harvard, 1909. Reasons for Negro Suffrage. 1913.

Yamato Ichihashi, A. B. Stanford, 1907; A. M., ibid., 1908. Japanese Emigration and their Immigration into the State of California. 1913.

John Ise, A. B. Kansas, 1910; LL. B., ibid., 1911; A. M., ibid., 1912. The Government Land Policy since 1880. 1914.

T. H. Jack, A. B. Alabama, 1902; A. M., 1903. The Opposition to Secession in Alabama.

Burr Frank Jones, A. B. Colby, 1907. The History of the United States Post Office.

Philip Benjamin Kennedy, A. B. Beloit, 1905; A. M. Harvard, 1911. Railroad Valuation. 1914.

R. J. Kerner, A. B. Chicago, 1908; A. M., 1909. The Early History of Russian Policy toward the United States.

E. A. Kincaid, A. B. State Coll. of Washington, 1910; A. M. Harvard, 1911. The Locofoco Movement.

Harley Leist Lutz, A. B. Oberlin, 1907; A. M. Harvard, 1908. State Control over the Assessment of Property for Local Taxation. 1913.

Selden Osgood Martin, A. B. Bowdoin, 1903; A. M. Harvard, 1904. Recent Water-Power Development in the United States. 1912.

Joseph Roswell Hawley Moore, A. B. Boston, 1899; A. M., ibid., 1906. The English Colonial System under the Hanoverians. 1914.

William Thomas Morgan, Ph. B., Ohio, 1909; A. M. Harvard, 1910. The Personality of the Federal Judiciary. 1914.

Johann Gottfried Ohsol, Candidate of Commercia, Riga Polytechnic Institute (Russia), 1903. Political Activities of the American Labor Unions. 1913.

E. W. Pahlow, B. L. Wisconsin, 1899; A. M. Harvard, 1901. The Diplomatic Relations between England and Holland, 1668 to 1672.

Dexter Perkins, A. B. Harvard, 1909. The Early Effects of the Monroe Doctrine in Europe. 1913.

R. J. Ray, A. B. Kansas, 1908; A. M., 1909. The Financial and Banking History of the United States, 1838–1846.

William Chauncey Rice, A. B. Wesleyan, 1901; A. M. Yale, 1902. The Decline of the Federalist Party in New England.

C. O. Ruggles, A. B. Iowa State Normal, 1906; A. M. Iowa, 1907. The Greenback Movement, with Special Reference to Iowa, Wisconsin, and Illinois.

Emil Sauer, Litt. B., Texas, 1903; A. M. Harvard, 1908. The Reciprocity Treaty of 1875 and the Relations between the United States and Hawaii, 1875–1908. 1912.

Walter James Shepard, A. B. Harvard, 1902. The American Indian Policy.

H. N. Sherwood, A. B. Indiana, 1909; A. M. Harvard, 1910. The Relations of the United States with Spain, 1780–1795.

G. M. Stephenson, S. B. Chicago, 1906; A. B. Augustana, 1910, A. M. Harvard, 1911. The History of Politics and the Public Land from 1841 to 1862.

Russell McCulloch Story, A. B. Monmouth College, 1904; A. M. Harvard, 1908. The Office of Mayor in the United States.

Charles Manfred Thompson, A. B. Illinois, 1909; A. M., ibid., 1910. Illinois Sectionalism; 1830–50. 1913.

Raynor Greenleaf Wellington, A. B. Harvard, 1902; A. M., ibid., 1903. Political Influence of Public Lands, 1825–42. 1913.

Francis Harding White, A. B. Princeton, 1887; A. M. Harvard, 1898. The American National Government since 1789. 1912.

Ralph Cahoon Whitnack, A. B. Brown, 1906; A. M. Harvard, 1911. Land Valuation in England. 1914.

Carter Godwin Woodson, A. B. Chicago, 1907; A. M. Ibid., 1908. The Disruption of Virginia. 1912.

ILLINOIS

D. O. Clark, A. B. Drury, 1890; A. M. Illinois, 1909. Ministerial Responsibility in Prussia since 1786.

Harry E. Heeren, A. B. Judicial Control over Legislation in Foreign Countries.

S. M. Reed, A. B. Mount Holycke, 1907; A. M. Illinois, 1908. A Study of the Relations between Church and State in Massachusetts, 1691–1780.

P. S. Reiff, Ph. D. Tübingen, 1901. Friedrich Gentz: An Opponent of the French Revolution and of Napoleon.

J. P. Senning, A. B. Iowa, 1908. Political Sectionalism in Illinois.

JOHNS HOPKINS

J. L. Donaldson, S. B. Maryland Agriculture College, 1910. State Administration in Maryland. 1913.

C. G. Fenwick, A. B. Loyola College, 1908; A. M., 1909. The Neutrality Laws of the United States. Completed.

P. S. Flippin, A. B. Richmond (Va.), 1906. Royal Government in Virginia, 1624–1776.

W. B. Hunting, A. B. Johns Hopkins, 1909. The Impairment of the Obligation of Contract. 1913.

O. L. Owens, A. B. Richmond College, 1898. The Protection of American Foreign Missionaries by the United States Government. 1913.

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BOOK REVIEWS

A History of the American Bar, Colonial and Federal, to 1860. By CHARLES WARREN. (Boston: Little Brown & Co. 1911. Pp. xii, 586.)

This fascinating book is of encyclopaedic character and of varied interest. The author well calls it "an historical sketch for those who wish to know something about the men who have composed the American Bar of the past, and about the influences which produced the great American Lawyers." He has divided his work into two parts; of which the first, discussing the colonial bar, covers about a third part of the book; while the second, treating of the Federal Bar occupies the remaining pages. Although the book is theoretically brought down to the outbreak of the Civil War, on certain topics Mr. Warren continues his narrative for twenty or thirty years longer and it is much to be desired that he prepare an enlarged edition, which shall carry the whole work nearer the present day. In addition to legal text books and law reports, he has studied with great profit legal biographies and has brought forth treasure from the mines of legal periodicals, and the files of the North American Review. His foot-notes, giving brief chronological data as to the lawyers named in the text, are so helpful that we wish there were more of them.

In the first part of the book, Mr. Warren shows the legal conditions in each of the American Colonies separately, describing the status of the common law, stating the methods of appointment and composition of the courts, and giving an account of the leading lawyers. We learn what were the methods of a lawyer's education and what books he had, what colonial bar associations arose, and often we find illuminating comparisons of dates of events in England and America.

In the second part of the book, the rise and development of American lawbooks are well treated in two important chapters. The author thinks that four great factors have been largely responsible for the great development of the numbers and importance of the American bar during the nineteenth century and gives three chapters to them, written from the historical point of view. These factors in the prog-

ress of American law are "the rise and growth of corporation and railroad law between 1830 and 1860, the expansion of the common law to meet the new economic and social conditions arising between 1815 and 1860, and the weighty movement for codification between 1820 and 1860." A chapter is devoted to the history of law professorships and law schools from 1784 to 1830 and it is to be hoped that this subject, in later editions, may be brought down to the present time and that an account may be added of examinations for admission to the bar by boards of law examiners and of the efforts of the American Bar Association and of the Association of American Law Schools to advance legal education.

The work is so valuable and a second edition is so likely to be called for that the reviewer wishes to call attention to some corrections which may well be made when the book receives revision, The landowners, (page 2) rather than the merchants, were the ruling class in Maryland and Virginia. The relation between Maryland lawyers and the Governors were not so persistently hostile as indicated on page 8. Peter's *History of Connecticut* (page 13) is hardly to be cited as authority. The statement as to the first public library (page 16) may well be revised in view of C. K. Bolton's recent chapter on library history. *Eisen-a-chia* (page 33) should be *Eire-narchia*. The "first written constitution of a free commonwealth" is usually said to be that of Connecticut, or of New Hampshire, not of Virginia (p. 47). There is no record of any "court of pupowder" having been established in Maryland (p. 50). The reference to Mrs. Margaret Brent (p. 52) may well be compared with the account in "Maryland during the English Civil Wars" in J. H. U. Studies for 1907 (p. 83). For the early period in Maryland, reference may also be made to an article entitled Maryland's First Courts in Report of American Historical Association of 1901 (vol. 1. p. 211), and a monograph upon Maryland under the Commonwealth in J. H. U. Studies for 1911. Concedend*a* on page 103 should be concedend*o*. An interesting light upon Andrew Hamilton and John Peter Zenger (p. 108) may be found in an article in Pennsylvania Magazine of History vol. 20. p. 405. The Records of the Jurisdiction of New Haven in 2 volumes may add to the information as to colonial times in Connecticut, as may the sketch of Gov. William Leete in Annual Report of American Historical Association for 1891 (p. 209). Gov. Leete had been registrar of the Bishop of Ely's court and was head of the Plantation Court in Guilford, Conn. whose proceedings are discussed in the reviewer's history of the town,

chapter VIII. Bacon's Laws (p. 161) was far from the first compilation in Maryland and a list of the earlier ones may be found in Maryland Manual for 1907–1908 at page 111. In this connection, an important article on Bacon's work may be cited, which appeared in 2 Maryland Law Review, 82. The Maryland Provincial Bar comprised a remarkable body of men and the noteworthy way in which Gov. Francis Nicholson and his council leaned on them about 1695 may be learned from two articles in Maryland Law Review (vol. 2. pp. 70 & 106).

Reference might be made to Valette's *Deputy Commissary's Guide* and Caine's *Lex Mercatoria Americana* in connection with early American law books (29 American Law Review 149 & 467) Much more may be said of Virginia law libraries in Colonial times (p. 162) and an article in 9 Green Bag 351 may well be consulted. The "six corporations" of colonial times (p. 285) referred to do not include such educational institutions as Yale and Harvard Colleges. Harris and McHenry's Reports (p. 284) no longer contain the "earliest American cases," for the two volumes of Provincial Court Proceedings in the Maryland Archives ante-date them, to say nothing of what has been published as to the other colonies. Reference should be made also to the Virginia Provincial Reports, recently printed by the Boston Book Company. On page 354, 1826 should be 1806. References to Ames's *Proposed Amendments to the Constitution* (Report of American Historical Association 1896 vol. II. pp. 143–164) may well elucidate page 385. A word such as "government" has probably dropped out of the first line of Jefferson's letter of January 19, 1821 as printed on page 385. Harpers Weekly was established in 1856 not 1836 (p. 461). In connection with the labor cases (p. 469) it will be well to refer to J. R. Commons *Trade Unionism and Labor Problems*, vol. II, *Substraction* (p. 480) should be *substratum*.

While it may be well to devote special attention to Massachusetts railroad cases, reference should be made to the legal ability of J. V. L. McMahon, who drew up the Baltimore & Ohio Railroad charter, and to the case between that corporation and the Chesapeake and Ohio Canal, decided in 1832, in which opinions were given by those notable jurists, Chancellor Theodoric Bland and Chief Judge John Buchanan (4 Gill and Johnson pp. 1–273). The stigma of repudiation of debts (p. 486) should be removed from Maryland, which paid them all, thanks to Gov. Thomas G. Pratt and George Peabody. Trojan (p. 493) should be Trajan. The "emancipation of the slaves" (p.547)

did not completely take place until the adoption of the Thirteenth Amendment in 1865.

BERNARD C. STEINER.

Die zweite Haager Friedenskonferenz, II Teil, Das Kriegsrecht, unter Mitberücksichtigung der Londoner Seerechtskonferenz By OTFRIED NIPPOLD. (Leipzig: Duncker & Humblot 1911. Pp. 267).

This book constitutes the second part of a work upon the Second Hague Peace Conference, and deals particularly with the law of war as formulated in the Conventions of the Conference. Reference is also made to the work of the International Naval Conference of 1908–1909 as formulated in the Declaration of London of February 26, 1909. The purpose of the book is to present clearly for the general reader the results of these recent Conferences. The method is therefore explanatory rather than critical. The author aims to show both what the Hague Conference accomplished and what it did not accomplish. Brief consideration is given to the special Conventions such as those relating to the Opening of Hostilities, the Discharge of Projectiles from Balloons, while the general Conventions relating to the Laws and Customs of War on Land, and to the Rights and Duties of Neutral Powers and Persons in Case of War on Land receive fuller attention. Almost two hundred of the two hundred and sixty-seven pages are devoted to the law of war on the sea. In such matters as the transformation of merchant ships into war ships in time of war, the author properly points out that not merely are the domestic and international rights of the belligerents involved but also the similar rights of neutrals. This is emphasized in the failure of both The Hague and the London Conference to agree upon a rule which should forbid such transformation on the high seas. The prohibition of the bombardment of undefended places and the regulation of the laying of automatic contact submarine mines is given as an evidence of the prevalence of law in matters of growing importance in the conduct of maritime warfare. The American proposition at the Second Hague Conference to exempt private property from capture on the sea is discussed and the slight concessions to this principle as shown in the Convention relative to the Restriction on the Right of Capture in Maritime War are explained.

The respects in which the provisions of the Declaration of London of 1909 supplement The Hague Conventions are set forth at length. That in the provisions of some of the Conventions there may be what seem like backward rather than forward steps is acknowledged by the author, particularly in the rules which sanction the extension of warlike measures to neutral property, the use of submarine mines, the elaboration of the category of conditional contraband and the provision for the destruction of neutral vessels. Admitting that the question of policy must for the present enter into the settlement of these rules because the supposed interests of the parties are not identical, the author also raises the point as to whether these supposed interests are not more nearly identical than generally believed. Advocating the freeing of neutrals from the burdens of war as a self-evident principle, he sees progress for the law of war on the sea along the lines which shall limit the interference with neutral rights in maritime warfare as the interference with such rights is limited in land warfare. The author sees in the regulation of the use of the air space one of the great problems for the Third Hague Peace Conference and maintains that even after the work of the International Naval Conference much remains to be done in the task of formulating the rules for war on the sea. He would be inclined to relegate the problem of disarmament and other problems of a political nature to special conferences and to leave to The Hague Conferences the further development of the law of nations.

The book is a convenient summary of the recent conventional agreements showing the progress of international law through the work of conferences. The bibliography as shown in the foot-notes indicates the great attention that has been given to the work of the recent international conferences. An appendix contains the Declaration of London and a list of the States which have ratified the several Hague Conventions up to August 1, 1911.

G. G. Wilson.

The Persian Revolution of 1905–1909. By Edward G. Browne. (Cambridge: University Press, 1910. Pp. xxvi, 470).

As is natural in one who has devoted many years to the study of the Persian language and literature, Professor Browne is distinctly a Persophile. The reader of his well-constructed book reaps many

advantages from this fact. A warm sympathy, combined with a complete understanding of the intellectual equipment of the educated Persian, enables Professor Browne to lay bare the heart of the matter. He is also something of a Russophobe, but this leaning can hardly be said to lower the value of his narrative, since he is conscious of it, and careful to make due allowance. If it be added that he is a patriotic Englishman, earnestly desirous that his country's press and government should speak the truth and do the right, three points are established which fix his position firmly.

His method of presentation is admirably adapted to a subject of which the western world knows little, and whose materials are mainly documents in a language read by very few. No important statement of fact and few expressions of opinion are left without the support of definite references. In fact, from one point of view the book may be described as a well-selected and well-arranged series of translations, abstracts, and quotations, connected and interpreted in a moderate and convincing manner. Not the least valuable of the contents of the book to the student of political science is the translation, given in an Appendix, of the "Bases of the Persian Constitution," in particular the "Fundamental Laws of December 30, 1906," and the "Supplementary Fundamental Laws of October 7, 1907."

The author's account of the course of events cannot be reviewed here. A few words about the genesis and the character of the Persian constitution may, however, not be amiss. Fixed laws and a parliament were talked of as early as 1890 (p. 37), but no insistent demand for constitutional government arose until the summer of 1906. At that time, under the leadership of certain *mujtahids*, or learned doctors, supported by nearly all the *Ulema*, or educated Moslems, some thousands of persons took refuge at the British Legation, and thus put such pressure upon the Shah that he promised by the Fármán of August 5, 1906, to establish a "National Consultative Assembly." A committee of the friends of popular government prepared an Electoral Law which was promulgated September 9th. Direct election, participated in by male Persian subjects over twenty-five years of age, persons of responsibility and favorably known, was to be employed for the choice of 156 deputies. In order that the new scheme might come rapidly into operation, 60 deputies were to be chosen from the capital city, which contains but three per cent of the population, and these were to constitute the Assembly, until the members from the provinces should join them. The Assembly met October 7, and pro-

ceeded with despatch to draw up Fundamental Laws. The first instalment, promulgated December 30, was concerned with the character and powers of the assembly and with the establishment of a Senate of 60 members, 30 of whom were to be appointed by the Shah, and 30 to be elected by the people; in each group one-half were to be chosen from residents of the capital city. The remainder of the provisions usually found in constitutions were fashioned more slowly, and were promulgated October 7, 1907. The hand of the learned doctors is apparent in the opening articles. Islam according to the Shia doctrine of the Twelve Imams is declared to be the official religion of Persia, and a court of constitutionality in the form of a committee of five or more theologians is provided for, to sit in the Assembly and pronounce upon all proposed laws, judging them with reference to conformity with the Sacred Law of Islam. Article 2. which establishes this court, is declared not subject to amendment. Thus the supremacy of the Sacred Law over all other law, which is affirmed also by the Turkish Constitution, is in Persia to be maintained effectively by a special organ of government, irrevocably delivered into the control of the *Ulema*. An elaborate bill of rights sets forth the rights of the nation, the deputies, and the crown. Popular sovereignty is affirmed. The Shah is asserted to have no powers beyond those explicitly stated. The ministers are individually and collectively responsible to both of the Chambers. Finance is to be strictly controlled by the Assembly.

After the overthrow of the first Assembly by Muhammad 'Álí, June 23, 1908, and the consequent revolt of the provinces, and while the nationalists were closing in on Teheran, July 1, 1909, a new Electoral Law was proclaimed, which abrogated the disproportionate representation of Teheran, reduced the number of deputies to 120, and made elaborate provision for a new apportionment, and for election by two stages. Four deputies were to represent the small non-Moslem groups: an Armenian, a Nestorian, a Zoroastrian, and a Jew. The second Assembly was chosen under this law. Meantime the Shah had been deposed, his minor son Ahmad had been crowned, and the way was clear for an attempt at sovereign rule by the Assembly, under the Sacred Law, unhindered by obstructive and reactionary royal power.

Professor Browne's book may yet have to serve as an epitaph; he takes care that it shall not profess to be a prophecy. He has simply followed the "bird of time" "a little way." The book undoubtedly

reveals as regards many Persians (as doomed Mírzá Rizá said, p 74) "of how feeble a texture these people are, and how they love life, and position." Whether the post-revolutionary Persians will prove to be of so much better stuff that they can maintain their nation in substantial independence, the author hopes but does not venture to predict (p. 350). If they should be overwhelmed prematurely by foreign interference, it will not be the fault of this friend of Persia, who has labored so effectively to make the situation clear.

ALBERT H. LYBYER.

The Story of Korea. By JOSEPH H. LONGFORD. (New York: Charles Scribner's Sons, 1911. Pp. vii, 400).

Professor Longford, of King's College, London, has already to his credit what may be considered the best brief and popular history of Japan before the restoration. It might be too much to expect a similar success within a year and in a less familiar fie d, yet his "Story of Korea" deserves almost equal praise. It is, frankly, a story, told in an easy and popular way. No pretence is made of important contributions to the history of the Hermit Kingdom, but instead judicious use is made of the best of existing authorities. And so within a fairly brief compass a most readable account of the history of Korea is given, from the dark ages to the annexation to Japan.

Although the volume contains many of the desirable features of the earlier work, the use of the best material, the skilful condensation, the attractive style, yet it lacks the personal knowledge and enthusiasm which make the "Story of Japan" so notable. The merit of a brief history consists largely in the choice of the subjects treated, and exception may be taken to the proportions assigned by Professor Longford in the present work. Too little attention seems to be paid to the history of the Korean people and too much to other things. One chapter is given to "The Country and the People" but two chapters tell of Hideyoshi's fruitless invasion of 1592–98. One chapter covers the history from 1600 to 1868, but two chapters are devoted to the early Christian propaganda and persecution. And the important period of the Japanese protectorate is covered in fifteen pages. A necessary result of the treatment by topics is the lack of chronological sequence which is at times disturbing to the reader and necessitates frequent reference to earlier or later chapters.

Professor Longford is most optimistic as to the future of Korea under Japanese rule. Few people "realize the great addition which its incorporation in the dominions of the Emperor of Japan will make to the military and commercial resources of his Empire. Its magnificent harbors will provide new bases, and its coast population, which produced brave and skilful sailors in the Middle Ages, will afford abundant recruits for his fleet. Its peasants will furnish a large contingent to his armies, which scientific training, discipline, and good treatment, the writer, judging from his own experience in Japan, believes, will convert, ere another generation has passed away, into soldiers not less fearless or efficient than are now the Japanese themselves. Its abundant natural resources, favored by a good climate, by rainfall and sunshine that are both abundant, and by entire exemption from the disasters of floods and earthquakes that are the terrors of Japan, only require intelligent, honest and scientific development to convert their potientialities into realities of industrial and commercial wealth. All this will be given by Japanese administrators, who will bring to Korea the methods which they have already so successfully exploited in their own country as to raise it, within half a century, from impotence and indigence, into the position of one of the great military and commercial powers of the world."

The story of Korea is well told, and it is indeed an interesting one. It should be better known in this country and no account could be more highly recommended to the general reader. The volume is enriched with thirty-three illustrations and three maps, a list of works consulted by the author and an index.

PAYSON J. TREAT.

Papers on Inter-Racial Problems Communicated to the First Universal Races Congress. Edited by GUSTAVE SPILLER (London: P. S. King & Sons. 1911. Pp. xvi, 485.)

The first universal races congress, which held its sessions at the University of London, July 26–29, 1911, was from one point of view a most notable gathering, and a great success from the point of view of the white race, because it represented an awakened conscience on the part of the white man toward the *weaker and inferior* races. The congress was unsatisfactory from the standpoint of some of the colored races because it assumed the superiority of the Caucasian race in all

things, and looks for progress in the colored races only as they follow in the trail of the white man, overlooking the great achievements of the colored races in the progress of the world.

Fifty-nine papers were submitted to the congress and all of them are comparatively free from racial bitterness or prejudice. The many and difficult racial problems were presented from many different points of view by representative men and women from all parts of the world, representing many of the races of mankind. Religion, language, intermarriage, and commerce were all discussed from many different points of view as being the means by which the races of mankind may come to a better understanding of each other through mutual respect and co-operation. Commerce and a common language, however, were most emphasized as agencies in the accomplishment of international peace and racial harmony.

To the student of Political Science the papers showing the progress of the colored races in self-government are of special interest and tend to dispel the common notion that the white race, and the Anglo-Saxon in particular, only understand the fundamental principles of self-government. Papers on the government of colonies and the treatment of dependent peoples are also of interest. A number of papers dealing with primitive peoples are of special interest to the students of Sociology and Anthropology. The race problem in the United States was presented in a very carefully prepared paper by Dr. W. F. B. Du Bois, and the tribal life of the North American Indians was interestingly depicted by Dr. Charles A. Eastman (Ohiyesa).

At the last session of the congress a permanent international committee was established with headquarters in London to carry on the propaganda through affiliated committees in all parts of the world and to convene future congresses. The volume of papers contains an excellent bibliography covering the subjects of Anthropology, Ethnography, and Race Contact. A fair index adds to the usefulness of the volume.

FRANK EDWARD HORACK.

Eléments du droit public et administratif, à l'usage des étudiants en droit (capacité). By GASTON JÈZE, professeur agrégé à la faculté de droit de Paris. (Paris: V. Giard et Brière, 1910 Pp. 315).

The basis of this little book, we are told, were the notes of a course on the elements of public law given by Professor Jèze in 1909 and 1910.

No attempt has been made to treat the subject comprehensively, but rather to give a summary of the general ideas which dominate the public and administrative law of France. At the same time, the author endeavors to present a work of a scientific character, and in this respect he has succeeded. There is no other book where one can find in so few pages the general principles of French constitutional and administrative law so clearly presented and so logically arranged. He discusses in turn the general theories of constitutional law, the organization of the public powers, the theory of the public function, elections, suffrage, functionaries, the organization of the administration, administrative jurisdiction and administrative courts, local administration, the public domain and public finances, special attention being given to the theory of the public function and the administration of the national domain. He bestows deserved praise upon the Council of State, the most respected of all the French political institutions, and declares, what must be the opinion of every careful student of French administrative law, that it is an admirable and impartial tribunal above all suspicion and that there is no other tribunal in the world that administers better justice (p. 116). He dwells upon the new and liberal jurisprudence which it has developed in the interest of individual rights, and shows that it is more favorable to liberty than is the Court of Cassation (pp. 103, 111, 116). No one has stated more clearly than he the principles which underly the separation of justice and administration in France and the reasons for confiding to special tribunals the determination of administrative controversies. Rarely expressing his own opinion on controverted points, he occasionally indulges in criticism where it is clearly justifiable. Thus he says of the subprefects that they are useless for purposes of administration and that their principal preoccupation is that of political agents (p. 138). His dislike of prefects is even more pronounced. They exercise an ownership over the functionaries from the point of view of politics and make it their chief duty to see that the electors vote for the candidates favored by the government. This is regrettable, he adds, since it completely "denatures" the legal character of prefectoral functionaries. This is the reason for the widespread demand for the suppression of prefects as the first step in the direction of administrative reform (p. 141). The control which they exercise over the Communal authorities, he remarks, is very objectionable and is often in the interest of national politics. In regard to municipalities which are favorable to the government the prefects close their eyes to all illegalities and

neglect their power of control, leaving injured individuals to address their complaints to the Council of State in the form of recourse for excess of power. This is why many persons insist that there can be no thorough going decentralization as long as the prefectoral office is maintained (p. 160).

J. W. GARNER.

Traité du Pouvoir Judiciare, De Son Rôle Constitutionnel et De Sa Réforme Organique. Deuxième Edition. By JULES COUMAUL. (Paris: Larose et Tenin. 1911. Pp. 500).

The first edition of this book appeared in 1895. The new revision brings the subject matter up to date and puts it abreast the recent literature relating to the Judiciary in France. The work is divided into two parts, the first of which deals with the general principles of the judicial power and the causes which, according to the author, have prevented the French judiciary from fulfilling its true mission. The second part treats of needed reforms in the organization, jurisdiction, and procedure of the courts, and contains a discussion of the various solutions which, it is claimed, are necessary to enable the judiciary to occupy its proper place in the constitutional system of France. The author deplores the fact that the judiciary in France is wholly ignored by the constitutional laws of the Republic and that its dependence on the executive power has reduced it to a position of inferiority. He is an outspoken adversary of the administrative jurisdiction which has constantly been extended by the decisions of the tribunal of Conflicts and to a less degree by the Council of State. Contrary to the opinions of most French writers, he maintains that the administrative jurisprudence is less liberal and less favorable to individual rights than that of the judicial tribunals, that its aim is to enlarge the power of the state, and that the judicial tribunals alone should be the guardians of individual liberty. Indeed, he argues, the penal code, as well as various provisions of the civil code, to say nothing of the most ancient traditions, show conclusively that individual rights were placed under the protection of the judicial power but that it has been deprived of this protection by an unwarranted extension of administrative jurisprudence. Thus the tribunal of conflicts has, not only by its decisions handed over to the administrative courts, a large class of cases involving controversies between individuals and the state, but also between

individuals on the one hand and the departments and communes on the other. All this was done under the name of the principle of the separation of powers, but in reality it has involved the violation of this sacrosanct principle. He discusses the arguments commonly advanced in support of the theory of administrative jurisdiction and the necessity of withdrawing from the judicial tribunals the determination of controversies between individuals and the administration, but those arguments do not appear to him to be sound and well justified. Incidentally he eulogizes the American system where no separation of administrative and judicial competence is recognized, and where the judicial tribunals exercise the power of declaring null and void acts of the legislature which are repugnant to the constitution. He devotes two chapters to the discussion of the relations between the judicial power and the executive power, and between the judicial power and the legislative power, his general thesis being that the judicial power occupies a position of too great dependence and inferiority.

In the second part of his treatise Monsieur Coumaul discusses the conditions essential to the independence of the judicial power, such as the mode of appointment, removability of the judges, etc.; reforms of organization; procedural reform; and the importance of judicial forms. He favors a modification of the principle of plurality of judges which has always been a fundamental principle of French judicial organization, and suggests that better results would be attained if the tribunals of first instance were constituted with a single judge instead of three, and the courts of appeal with three judges instead of five, as is now the practice. He also makes a plea for the extension of the jurisdiction of the justices of the peace and a general improvement of these much neglected though very important tribunals. It may be remarked here that a beginning in this direction was made in 1905 by the enactment of a law framed by the minister of justice Cruppi—a law which not only enlarged the jurisdiction of the justices of the peace, but provided certain guarantees concerning methods of appointment and advancement of the magistrates.

J. W. GARNER.

Les Methodes Juridiques. Lecons faites au Collège Libre des Sciences Sociales. By MM. F. LARNAUDE, H. BERTHÉLEMY, TISSIER, H. TRUCHY, E. THALLER, PILLET, E. GARÇON, Professeurs à la Faculté de droit de Paris; E. GÉNY, Professeur à la Faculté de droit de Nancy. (Paris: V. Giard et E. Brière, 1911. Pp. xxiv, 231.)

This is a collection of studies in juridical methods delivered in the form of lectures before the *Collège Libre des Sciences Sociales* of Paris in 1910, the initiative being due to Professor Raymond Saleilles, who organized the course. M. Paul Deschanel, a distinguished French publicist, formerly President of the Chamber of Deputies, contributes a preface in which he dwells upon the importance of the question of judicial methods in the social life of today. Three facts, he says, contribute to the importance of the question in France. First, the antiquity of the French codes and especially of the civil code. The method of literal interpretation, once so easy, no longer suffices, since a host of new questions now come before the tribunals for which the code makes no provision. Second, the peculiar character of French administrative legislation. Never having been codified it lacks the unity which is characteristic of the civil law. It has, therefore, been left to the jurisprudence of the Council of State to develop principles and juridical constructions, and this it has done in an admirable manner. Third, the introduction of the social and economic sciences into the law faculties has given a new character to judicial studies, so that the jurist today must preoccupy himself with a method of interpretation in harmony with actual needs and existing ideas. Professor Saleilles contributes an introductory paper in which he develops the idea of M. Deschanel that the French codes are out of date. The civil code, in particular, he remarks, was made for a society essentially individualistic, while the French society of today is moving more and more in the direction of collectivism.

Professor Larnaude's paper, perhaps the most important in the group deals with the conception and methods of public law; Professor Berthélemy treats of the method applicable to the study of administrative law, showing how an efficient administrative system may be consistent with a wide and well-protected individual liberty; Professor Truchy discusses methods in political economy; Professor Tissier, the social and economic rôle of civil procedure; Professor Thaller, method in commercial law; Professor Pillet, method in international law; Professor

Gény, the procedure of elaboration of the civil law; and Professor Garçon, the methods employed in criminal law. Next to Professor Larnaude's paper those of Professor Tissier and Professor Garçon possess the most general interest. Professor Tissier dwells upon the economic and social significance of a simple, expeditious and inexpensive procedure in the administration of justice, and shows that the existing French procedure lacks all three of these elements. There is about it, he says, too much *réglement*, too much formalism, and too much expense. Among the reforms which he suggests is to give the judge a larger power of direction in the trial, simplify the forms of procedure, and reduce the fees to which litigants are subject. Professor Garçon's paper deals mainly with the nature of the criminal law, theories of punishment and criminal statistics. Regarding the methods of combatting crime he affirms that the more rational and effective procedure is not hanging or imprisonment but the removal of the causes.

J. W. GARNER.

The Greek Commonwealth. Politics and Economics in Fifth Century Athens. By ALFRED E. ZIMMERN, Lecturer at the London School of Economics and Political Science. (Oxford Clarendon Press, 1911. Pp. 454.)

In this book we have a most attractive presentation of two interesting phases of the history of Athens in its best period. There are three parts to the book, the first, comprising fifty-one pages, on the sea, the climate, and the soil of the Mediterranean Area. This geographical section is clear, suggestive and interesting, and is quite the best part of the book. It forms, however, in the author's mind, only the background and stage against and on which to put the drama of fifth century life in Athens. In the section entitled Politics, therefore, various elements must play their parts to bring about the ideal of citizenship. Fellowships, or the rule of public opinion, custom, or the rule of the family, efficiency, or the rule of the magistrate, are chapters in early Athenian politics, and the available source of material for them, though scanty, is handled satisfactorily. The next four chapters, gentleness or the rule of religion, law or the rule of fair play, self-government or the rule of the people, and liberty or the rule of the Empire, are much too idealistic in treatment, and suffer accordingly.

All these chapters seem to be preliminary to the final chapter called happiness, or the rule of love, the ideal of citizenship as explained and dilated upon by Pericles in his famous Funeral Speech.

The third section of the book, Economics, is the least well done of the three. The author does insist, however, that the reader remember that all that Athens did in politics and economics was done in a poverty and discomfort, as regards material surroundings which is to us almost incredible. Athens had no budget, no problems of material organization, knew almost nothing of local competition or unemployment, and had as its economic watchword not "progress" but "stability," and producers and traders who ministered not to fashion but to custom. The author speaks of the strong "landed tradition" as a persistent force in the inherited social economy of Greece, and dwells upon the economic predicament of the Greek states when their respective populations reached natural limits necessitating one of two remedies, less people or more food, and upon the adoption of both plans, one entailing colonization and the other commerce and war. The ideas of the author about the growth of private and public ownership are, in the reviewer's judgment, not entirely satisfactory.

The book is, perhaps, rather popular than scholarly, and discursive rather than intensive, but it handles a great deal of material in a most attractive way, and is throughout illuminating and suggestive. It can be recommended to the general reader, with a caution against the author's tendency to idealism. The specialist must read it anyway.

RALPH VAN DEMAN MAGOFFIN.

Annexation, Preferential Trade, and Reciprocity. An Outline of the Canadian Annexation Movement of 1849–1850, with Special Reference to the Question of Preferential Trade and Reciprocity. By CEPHAS D. ALLIN and GEORGE M. JONES. (Toronto: The Musson Book Company Limited n. d. Pp. xii, 398.)

Only four years are covered by Messrs. Allin and Jones's study of the pre-confederation movements in Canada for annexation, preferential trade, and reciprocity with the United States; but these four years were the most eventful of any years in the history of the British North American provinces between the Quebec act of 1791 and confederation

in 1867. Between 1840 and 1846, in the years when Sydenham and Elgin were successively governor-generals, representative and responsible government was conceded by Great Britain to the United Provinces. In 1846 England went on a free trade basis, and an end was thereby made to the old colonial system under which grain, flour and lumber from Canada had received preferential treatment in the ports of Great Britain. This sudden change of policy, due entirely to economic conditions in Great Britain and Ireland, was most disturbing to all the British North American provinces. It was essentially so to Quebec and Ontario and in particular to the export trade of Montreal. Business became stagnant, real estate values declined, and with these conditions the credit of the government of the United Provinces also materially suffered.

Out of these conditions and the resulting political discontent there were developed five distinct movements: (1) an agitation to impel the British government to re-establish the preferential system; (2) a movement for a confederation of all the British North American provinces; (3) a movement for Canadian independence; (4) an agitation in Ontario and Quebec, with its greatest strength in Montreal, for annexation to the United States; and (5) the movement that ultimately resulted in the Elgin-Marcy reciprocity treaty that was in operation from 1854 to 1866. In these years also there was the beginning of the movement for protection to Canadian industries which culminated in the enactment by the legislature of the United Provices of the Galt and Cayley tariffs of 1848 and 1849, which were the foundation on which Sir John A. Macdonald laid the present day national policy of the Dominion of Canada in 1879.

The history of the movements for preferential trade, annexation and reciprocity from 1846 to 1850 is traced with much interesting detail by Messrs. Allin and Jones. They have worked principally in the newspapers of that period—those of Ontario and Quebec and the Maritime Provinces, as well as those of England; and they have been singularly successful in bringing out the causes which led to these three movements, and as regards annexation where and with what classes in Quebec and Ontario this movement had its greatest strength. No other period in Canadian political and economic history, before confederation or since, has been treated in such detail or with such care as these four eventful years from 1846 to 1850; and since Goldwin Smith published Canada and the Canadian Question in 1891, few books on political science or history have been written in Canada

that for permanent value can be compared with Messrs. Allin and Jones's exposition of the political unrest in the British North American Provinces that followed the abrupt termination of the old British colonial system.

E. P.

The Broad Stone of Empire: Problems of Crown Colony Administration with Records of Personal Experience. By SIR CHARLES BRUCE. (London: Macmillan and Co., 1910. Pp. xxxiv 511; viii, 555.)

Under this unusual title we have a fair contribution to the history of British colonial policy and a useful compendium of information regarding administrative questions connected with the government of "Crown Colonies and Places" within the British Empire. The author, a frequent contributor to the literature on these subjects, has drawn in the first place upon his own experience as a colonial administrator of high rank in Mauritius, Ceylon, British Guiana and the Windward Islands. He quotes at great length from his own despatches, from Blue Books, Proceedings of the Royal Colonial Institute and recent magazine articles, but rarely uses a foot-note. His arrangement is to sketch in about 170 pages the historical development of colonial theory and policy since 1815, concluding with three chapters on the Colonial Office, the Colonial Governor, and Local Government. Then in the latter half of the first and in the second volume a series of special topics receive treatment. At the end are useful appendices, maps and a fair index.

In the historical chapters one interesting statement is that "the dominant influence" in connection with the founding of the Royal Colonial Institute in 1868 "was the direct outcome of the consequences of the Civil War in the United States" (I. p. 147). Unfortunately the evidence and argument as here presented are insufficient. Certainly, however, during the next decade a great change overcame colonial theory particularly with regard to colonies chiefly in the tropics. From the distinction now to be more clearly drawn between colonies trained to self-government and those under direct imperial control the reorganization of the Colonial Office followed. In this connection the author urges the establishment of an advisory Council in England

to assist the staff of the Colonial Office and further the development of a special staff of scientific experts to deal with problems connected with the supervision of the natural resources and material welfare of the tropical colonies.

The encyclopedic character of the work is better shown in the chapters on Labor, Race, Education, Forestry, and Finance, to mention only a few of the many topics which are touched in one way or another. The chapters on Health, for example, furnish first a survey of the institutions and agencies upon which the empire depends for assistance, and second a record of thirty-five years experience in dealing with successive visitations of those tropical diseases which are so intimately connected with economic, religious and racial factors. Unfortunately here as elsewhere the long and largely appreciative quotations from official despatches leave little room for the formulation of policies. A further limitation is that the bulk of the data relates to Mauritius only. Indeed using this section merely as an illustration we have in the main the measure of the book.

In the sixty pages devoted to Defense there is much of interest if only because of the sometimes unconscious revelation of the chaos resulting from conflicting and shifting policies. Nowhere is this clearer than in the record of the great expenditure designed to make St. Lucia a first-class naval and military station and the none too speedy alterations in this imperial policy. In like fashion the lack of a satisfactory or efficient system of imperial defense becomes apparent in the crown colonies as well as in other parts of the empire. On the whole the author is in support of Mr. Joseph Chamberlain and elsewhere says "there seems to be no reason why the principles of a *Zollverein* should not be introduced into the fiscal relations of the United Kingdom with her Crown Colonies" (II p. 306).

A more personal element is reached in the comments on the Report of the Royal Commission on Mauritius, 1909, which are to be found in II, App. VII. In that report on the subjects of health, education, and local coöperation by Mauritians in government and administration the Commission proposed for reasons of economy and for other reasons to reverse or largely modify Sir Charles Bruce's policies. But on the whole the specialist may use the book with care and profit; and the general student will find in it a wide range limited at times by the traditions and view point often natural to a purely official career.

ALFRED L. P. DENNIS.

A Century of Empire. Volume III. 1867–1900. By HERBERT MAXWELL. (New York: 1911. Pp. xv, 367.)

The two earlier volumes of this interesting work have already been reviewed in this magazine and the concluding portion of the history is now before us. We know what to expect from the author; vigor and rapidity of narration, a lucid style, a full acceptation of the Conservative point of view, and we find all these in the volume under consideration. His culture still appears in the Latin proverbs (not always correctly printed) and the poetical quotations which appear in his pages and his frank, brief characterizations of men are as crisp as ever. Sometimes, he becomes epigrammatic, as, when he tells us on pages 209, that the "British electorate invariably reserves its gratitude for favours to come." His transition from one topic to another is sometimes rather forced, his proportion of space is different from what would be given by an American, his distaste for economic statistics lead him sometimes, as on page 242, to print a table of figures, which seem included, because he felt that he must furnish some and had no heart to work them into the text. On the other hand, he is scrupulously fair in stating the position of his opponents and his summaries of parliamentary proceedings are admirably done. There is a personal touch on many pages. Sir Herbert Maxwell could say *pars fui* of a portion of the history of the last portion of the nineteenth century in England and, at times, the narrative becomes almost autobiographical. His estimates of persons, such as of Lord Randolph Churchill on page 223, or of Queen Victoria at the end of the volume, are striking and forceful. The footnotes must not be forgotten, with their pungent comments on men and events. These same footnotes, by the way, show how frequently GreatBritain rewards her soldiers and statesmen in a way impossible to Republican governments; for, again and again, we read of some one that he was later raised to the peerage under a title which is told us. A detailed acount of the Boer war, which the author calls a "great war," emphazises the importance to Great Britain of that struggle, in which Lord "Roberts was in command of the largest all British force ever assembled in a single command." (page 332). The chief interest of students in political science will be found, however, in his discussion of such topics as the two Parliamentary reform bills of the period, in his whole-hearted antipathy to "Home-rule," in his unstinted blame of the Unionists for not providing for a redistribution of seats in the House of Commons and for a reform

of the House of Lords during the last long supremacy of that party, and in his clear and succinct discription of the foreign relations of England.

B. C. STEINER.

The Special Law Governing Public Service Corporations. By: BRUCE WYMAN. (New York: Baker, Voorhis & Co., 1911. Two volumes: Pp. ccxvii, 1517.)

Perhaps no recent publication has been more timely and more needed than this valuable treatise upon the law of public service corporations. Though based upon the established principles of the common law, its application to modern conditions, the growing number of callings that are recognized as public in their nature, and the increasing complexity of the problems presented makes this one of the most important branches of our law. The author declares that "it is hardly too much to say that the efficient regulation of the public employments by sufficient laws is the most pressing problem confronting the nation," (p. vii) and urges the bar to see that the problems are intelligently and ably met in order to avert the alternative policy of public ownership. The fact that such complicated duties have so suddenly fallen upon the profession, whose training has not prepared them for it, affords the reason for the publication of the work. The courts are commended for approaching the question with a broad and enlightened policy.

The author opens his treatise with a historical introduction, beginning with the mediaeval policies of regulation. Attention is given to the influence of the laissez faire philosophy upon the development of the law in the last century. Especially noteworthy is the claim for the unity of this branch of the law. "But at the present it is just being appreciated that rapid progress may be made by the general recognition of the unity of the public service law, whereby cases as to one calling may be used to show the law in all." (p. 33). That all the varied rules of this branch of the law are based upon the fundamental principles of the common law is clearly shown, which is especially important from the viewpoint of the constitutional validity of legislative control. The Introduction is a splendid preparation for the study of the treatise.

The treatise is divided into four books, the first being entitled Estab-

lishment of Public Calling. This deals with the facts and conditions which impress businesses or occupations with the character of a public calling. Legal, natural and virtual monopolies, carriers, and public professions are here discussed. In the second book, Obligations of Public Duty, the author discusses the nature, classification, conditions and limitations of the duty to the public and the justifications for refusing service. The next book on Conduct of Public Employments contains a discussion of the legal rules governing the commencement of service, the management of the business, the liability for default and termination of service. The last book is devoted to the Regulation of Public Service, and takes up the question of restriction of charges, the proper basis for the regulation of rates, and the prevention of discriminations. The Appendices contain the Interstate Commerce Act, the Commerce Court Act, the Elkins Act, the Expediting Act, Forms for Proceedings before Commissions, and Forms for Proceedings Involving Commissions.

The author's treatment is distinctly scientific, and the masterly, constructive organization of the subject matter, makes it a genuine contribution to legal thought. The plan of the work is logical and comprehensive and is constantly adhered to. The law is stated with commendable accuracy and the citations are unusually reliable. To fully appreciate the value of the work, one must remember, that it has only been within last few years, that such questions as discriminations, regulations of rates, etc., have received wide attention and that the law today on most points is still uncertain. Because of the rapidity of the development of this branch of the law, the volumes offer an excellent opportunity to the student of jurisprudence to study the process of judicial legislation and the conditions that affect it. The practical use of the book is greatly facilitated by an excellent index.

ARNOLD B. HALL.

Railway Rate Theories of the Interstate Commerce Commission. By M. B. HAMMOND. (Cambridge: Harvard University 1911. Pp. 200).

This book gives in small compass an intelligible exposition of the considerations which have influenced the Interstate Commerce Commission in its adjustment of freight rates. Mr. Hammond classifies

these factors as follows: "(1) The relative values of the commodities transported; (2) The relative costs of transporting the commodities; (3) The relative distances the articles are carried; (4) The relative natural advantages of location possessed by various places; (5) The special and peculiar interests of a given section or of a given class of producers; (6) The importance of maintaining competition; (7) The extent to which a given rate tends to yield a fair return on the actual capital invested." These classes are subdivided and examples are given of cases showing that sometimes one and sometimes another factor has been of essential importance in determining the decision of the Commission.

It is the deduction of the author, after a survey of the cases cited, that cost of service has really been the basic factor, that its underlying importance has been recognized by the Commission and by railway traffic men to a greater extent than is generally supposed. Thus in concluding the "review of the more important cases in which the Interstate Commerce Commission has based its decision in large part on considerations involving the value of the commodities," Mr. Hammond states "that while value of commodity has undoubtedly at times been accepted as a test of the reasonableness of a given rate, the use made of the principle has been much less than one would naturally suppose." At the close of the next section discussing decisions classified under "Cost of Service" is the statement "in applying the comparative method of determining costs and of fixing charges in accordance thereto, it would seem that the Commissioners and the railway officials have been merely pursuing the methods generally known and accepted by most careful business men, and the cost of service principle doubtless is capable of much the same application in the railway business as it is elsewhere." Furthermore, "the reader has doubtless observed in all these cases in which the Commission has emphasized distance as an influential factor in the determination of a rate, it has been because differences in distance seemed to express differences in the cost of service." Likewise "attention must once more be called to the fact that the natural advantages recognized in this series of cases are always due to differences in the cost of production or transportation." Then again in discussing the cases in the decision of which the maintenance of competition has been the controlling factor, Mr. Hammond says "the principle may be said even here to have found recognition that unless exceptional conditions prevail, the freight rate must be so

arranged as to cover the commodity's due proportion of operating expenses, fixed charges and reasonable dividends."

In the final chapter is this: "If the conclusion be accepted, which these articles seem to support, that the tendency of the Interstate Commerce Commission's decisions is, on the whole, towards a cost of service theory of rate making, there still remains the task of so stating a theory of rates as to bring in the various considerations which we have seen the Commission has emphasized as factors in rate making, and show how they can be related to the fundamental principal." This Mr. Hammond attempts to do in a series of eight rules for which he claims that "their consistent application would mean that the railroads would neither tax the industries of the country nor have their own investments sacrificed; they would not build up one place or industry at the expense of some other place or industry; they would not take from some persons or commodities their proportionate share of the cost of transportation and impose them upon other persons and commodities, and finally they would not by their system of rate making retard industrial progress or have their own development hindered by failing credit or lack of revenue."

Mr. Hammond's analysis and classification of the cases which he cites is interesting and of value not alone to the student. It is not a discovery, that cost of service is an underlying factor in freight rate adjustment. In the fixing of a specific freight rate, however, other factors enter in such varying degree and with such ramifying effect that the rules laid down by Mr. Hammond can have only a broad and general application that will be of little avail in determining exactly what a particular rate ought to be. It may be very well to lay down certain general rules for the sartorial art, but the supreme test of the tailor's ability is to make the clothes fit the man, whose contour sometimes may be such as to defy rule and precedent.

L. G. McPherson.

RECENT GOVERNMENT PUBLICATIONS OF POLITICAL INTEREST

BY CARL HOOKSTADT

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UNITED STATES[1]

Alaskan Problems. Reprint from proceedings at the 14th annual session of the American Mining Congress, held at Chicago, Oct. 24–28, 1911. 1912. 43p. 8°. *Congress. Senate.* (S. doc. 573.)

Arbitration Treaties (General) with Great Britain and France; ratified by the Senate on Mar. 5, 1912, Calendar day Mar. 7, 1912, together with resolutions of ratification thereon. 1912. 17p. 8°. *Congress. Senate.* (S. doc. 476.)

Arbitration Treaties, Senate amendments to. Copy of an article published in the *North American Review,* by Senator A. O. Bacon. 1912. 10p. 8°. *Congress. Senate.* (S. doc. 654.)

Bills of Lading. Hearings before the Committee on Interstate Commerce of the United States Senate, 62 Congress, on S. 4713, a bill relating to bills of lading in commerce with foreign nations and among the several states, and S. 957, a bill relating to bills of lading, Feb. 16–Apr. 26, 1912. 1912. 1346p. 8°. *Senate. Committee on Interstate Commerce.* (S. doc. 650.)

Bureau of Labor, Bulletin. No. 97–100. Nov. 1911–May, 1912. 4 nos. 8°. *Dept. of Commerce and Labor. Bureau of Labor.*

Cases brought in the Commerce Court, Letter from the Attorney General transmitting, in response to S. Res., of June 10, 1912, information relative to. 1912. 538p. 8°. *Dept. of Justice.* (S. doc. 789.)

Commerce Court, To abolish the. Report from House Committee on Interstate and Foreign Commerce (to accompany H. R. 19078). 1912. 27p. 8°. *House. Committee on Interstate and Foreign Commerce.* (H. rpt. 472.)

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[1] All numbered documents and reports refer to the 62d Congress unless otherwise specified.

Economy and Efficiency in the Government Service. Message of the President of the United States transmitting reports of the Commission on Economy and Efficiency. April 4, 1912. 565p. 8°. *Commission on Economy and Efficiency.* (H. doc. 670.)

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Election of William Lorimer. Report of the Committee of the Senate of the United States pursuant to S. Res. 60, directing a Committee of the Senate to investigate whether corrupt methods and practices were used or employed in the election of William Lorimer as a Senator of the United States from the State of Illinois, together with the views of the minority. 1912. 114p. 8°. *Senate. Committee on Privileges and Elections.* (S. rpt. 769.)

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federal courts shall not restrain or enjoin state officers in the enforcement of state laws or of the orders of public service commissions. 1912. 61p. 8°. *Senate. Committee on the Judiciary.*

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International Boundary Commission, United States and Mexico, Proceedings of. Diversion of Rio Grande by American Rio Grande Land and Irrigation Co. Decree awarding damages to complainants. 1912. 57p. 8°. *Dept. of State.*

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